IN THE POLICE COURT OF THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, DEPARTMENT NO. 2.

Honorable SYLVAIN J. LAZARUS, JUDGE.

THE PEOPLE OF THE STATE OF CALIFORNIA
vs:
ROSCOE ARBUCKLE.

MURDER.

REPORTER'S TRANSCRIPT.

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JOHN F. GALLAGHER,
Official Stenographer
Police Court
Department No. 2.

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ROSCOE ARBUCKLE)

THURSDAY, SEPTEMBER 22ND., 1921.

1:20 P.M.

THE COURT: Gentlemen, are you ready in the case of the People versus Roscoe Arbuckle?

MR DOMINGUEZ: Ready for the Defendant.

MR U'REN: The first witness will be Dr. Dtrange.

THE COURT: Before you proceed, gentlemen, I would like to state, in view of the large number of spectators here,-- I dont know that this statement is necessary, but still I would like to make it as a matter of precaution-- that the Court will expect absolute decorum to prevail during the course of this trial, and any expression of sentiment, one way or the other, if such should arise, during the course of the trial, will be resented as a contempt of this court; and such party or parties guilty of any such infraction of the decorum of the court will be punished for

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such contempt and ejected from the court-room. That will apply to any one or any number of people who should see fit, if such a thing should occur, to violate the proper decorum which is expected from spectators in a court of justice. Now, Mr. District Attorney, will you proceed?

MR U'REN: If your Honor please, will you please administer the usual oath to the stenographer to transcribe his notes correctly, and so forth, in this particular case?

(John F. Gallagher, official reporter of the Police Court of the City and County of San Francisco, Department No. 2, sworn by the Court)

MR U'REN: If your Honor please, we have agreed that all the witnesses on both sides of this case will be excluded from the court-room until they are called.

MR GOLDEN: That of course does not exclude the police officers?

THE COURT: They are always omitted from such orders-- necessarily so. All witnesses in the case about to be heard, the People against Roscoe Arbuckle, are directed to remove from the court-room. That applies to witnesses on both sides. Counsel, do you know of any parties in the court-room who are likely to be witnesses?

MR U'REN: Now, Dr. Strange, if you will take the stand and be sworn, please.

DR. SHELBY PHIPPS STRANGE,

Called as a witness in behalf of the People, sworn:

MR U'REN: Q. Doctor, what is your full name?

A. Shelby Phipps Strange.

Q. Where do you live?

A. 350 Kirkland Street.

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MR U'REN: Now, Dr. Strange, if you will take the stand and be sworn, please.

DR. SHELBY PHIPPS STRANGE,

Called as a witness in behalf of the People, sworn:

MR U'REN: Q. Doctor, what is your full name?

A. Shelby Phipps Strange.

Q. Where do you live?

A. 350 Kirkland Street.

Q. What is your business or profession?

A. Physician and surgeon.

Q. And how long have you been such?

A. Since 1912.

Q. You are a physician and surgeon? A. Yes sir.

Q. Of what institution of learning are you a graduate?

MR DOMINGUEZ: We admit the doctor's qualifications.

MR U'REN: It might as well go in the record.

A. Cooper Medical College, San Francisco.

Q. When did you graduate? A. 1912.

Q. Have you been practicing your profession ever since?

A. I have.

Q. You have a license from the State of California? A. I have.

Q. Are you attached to any hospital? A. Southern Pacific.

Q. In what capacity?

A. I am the surgeon in charge-- the examining surgeon in charge of the First Aid Hospital at Third and King Street.

Q. Your duties there cover what, generally?

A. Examining applicants going to work and treating the patients for injuries and sickness.

Q. You have injury cases there?

A. Quite a good many.

Q. Have you ever been connected as a deputy county autopsy surgeon?

A. I have.

Q. For what period of time?

A. Well, several times when the autopsy surgeon is out of town-- recently for one week, I think it was.

Q. In other words, you act as the deputy or the relief for Dr. Clark, the regular autopsy surgeon whenever he is called out of town?
A. Yes sir.
Q. And whenever he is absent you perform his duties-- that is the duties of autopsy surgeon? A. Yes sir.
Q. Were you acting as autopsy surgeon on September 9th, 1921?
A. I was.
Q. And in your official capacity did you perform an autopsy upon the body of one Virginia Rappe? A. I did.
Q. When was that performed?
A. On the 9th of September, at 8:15, I believe the hour was.
Q. A.M. or P.M.? A. P.M..
Q. Did you make any notes?
A. I did. I have them with me.
Q. As a result of this examination?
A. I have them with me, that I made at the time.
Q. You may use them, without objection, to refresh your memory, doctor. A. Thank you.
Q. What was the result of your autopsy, taking first your external examination of the body?
A. Thefirst thing I observed was an incision from the ensiform appendix--
MR DOMINGUEZ: (Interrupting) May I ask a question to qualify the witness a little? Q. Didn't you make that record there at the same time you made the autopsy?
A. I did.
Q. And this typewritten statement youhave there is typewritten

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MR DOMINGUEZ: (Interrupting) May I ask a question to qualify the witness a little? Q. Didn't you make that record there at the same time you made the autopsy?

A. I did.

Q. And this typewritten statement you have there is typewritten

from the original notes you made? A. Yes sir.

Q. Have you got the original notes?

A. I dont know whether I have or not.

Q. Well, you made this typewritten statement from your original notes? A. Yes, I did it myself.

Q. What became of the original notes?

A. I made it in pencil and took it to the coroner's office and I did it on the typewriter at the coroner's office.

THE COURT: Q. Did you type it yourself, doctor?

A. Yes sir.

MR DOMINGUEZ: Q. Do you know where those original notes are?

A. Probably in the waste basket.

MR O'REEN: Q. In other words, doctor, the typewritten statement youhave before you is the exact copy of your original notes?

A. Yes sir.

Q. And made by yourself from the original notes?

A. Yes.

THE COURT: Q. Isn't it possible, doctor, you elaborated a little bit as you transcribed from your notes on to the typewritten statement?

A. There is hardly any elaboration. I made them just from my measurements on the dimensions I took-- the areas of ecchymoses on the body.

Q. How long after you made the autopsy did you make this typewritten transcription of your notes?

A. As soom as I got back to the coroner's office from Halsted's-- probably half an hour.

MR U'REN: Q. Doctor, will you proceed to answer the question?

(Question referred to, read by the reporter, as follows: "What was the result of your autopsy, taking first your external examination of the body?")

A. The first thing I did was to generally inspect the body, and I decided that she was about twenty-five years of age, and about five feet five inches, and weighed about 140 pounds. And then I looked at the external surface of the body. The first thing that I observed was an incision in the abdomen from the ensiform appendix to the symphysis pubis. This incision-- I was told at the time--

MR DOMINGUEZ: Just a moment. We object to any hearsay.

MR U'REN: Q. Doctor, just proceed and tell what you saw.

A. Well, I saw this incision and I also saw a number of marks on the body.

Q. Did you make an examination of the body, that is the arms and the legs and the trunk itself?

A. Yes, I examined the body and the limbs; both the lower and the upper limbs.

Q. Where did you start in your examination-- did you start at the head or the middle or the legs?

A. I examined the face and the head by inspection-- did not notice any marks on the face or head or on the scalp; but on the arms I noticed a few areas of ecchymosis.

Q. Please describe those as minutely as you can, doctor.

THE COURT: Q. Doctor, could you use some more intelligible term?

A. Well, ecchymosis is bruise. I think ecchymosis would be the more definite term.

MR DOMINGUEZ: I object until the doctor qualifies as an

[illegible]

[illegible] Just a moment. We object to any hearsay.

[illegible] Doctor, just proceed and tell what you saw.

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[illegible]

[illegible] you start at your examination-- did you start at the [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

expert-- let him state what he saw and observed, and no more.

MR U'REN: You admitted his qualifications a few moments ago.

MR DOMINGUEZ: Not as an expert.

MR U'REN: Q. You saw an ecchymosis on the arm, and that in English is a bruise?

A. Yes sir.

Q. How many bruises did you see on the right arm?

A. May I refer to my notes for the exact number?

Q. Yes sir.

A. There was a large area of ecchymosis three inches above the external condyle of the right humerus.

Q. Doctor will you explain where that was-- use an English term that laymen can understand.

A. This is the external condyle of the humerus. This bone is called the humerus (indicating) and this would be the arm, and this the forearm. This was three inches above the external condyle of the humerus. And it varied in width from half an inch to an inch and it was exactly four inches long-- that is measuring from the posterior surface of the arm around, as I understand it, to the anterior surface of the arm. There was another mark an inch above this on the external surface of the arm which measured one and a half inch by one half inch in size.

Q. You mean one and a half long by one half inch thick?

THE COURT: Not thick, but wide, mostly, I should imagine.

A. Yes. It is wide. That is the dimensions of the surface of it. This mark-- I am not positive whether I said external surface or the posterior surface, but it should be the posterior surface.

MR U'REN: Q. You pointed the location of that bruise on your arm?

A. Right about here, an inch above the other, which would make it about four inches below the external condyle on the posterior surface.

Q. Are those all the bruises on that arm, doctor?

A. No, there was another one one half inch in diameter at the right deltoid muscle.

Q. That was how far from the second wound or bruise you have just described?

A. I didn't take any measurements there because that is a common landmark.

Q. Any other bruises on that arm?

A. There was another circular mark, very small, a quarter of an inch in diameter at the posterior border of the right deltoid, about the middle--

Q. A wound at the back of the arm?

A. Yes, right here (illustrating). That was within two or three inches of the upper end of the humerus. That was all I found on the right arm.

Q. Now goong to the left arm, doctor?

MR DOMINGUEZ: I wonder, if your Honor please, if the doctor couldn't describe that a little more technically.

THE COURT: I think he has described it too technically, in language we can't understand--

MR U'REN: Q. Go over to the other arm, on the left arm.

A. On the left arm there were several marks, one was a vaccination mark which I noted for the purpose of landmark, about the

[illegible] The pointed the location of that bruise on your [illegible]

[illegible]

[illegible]

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[illegible]

[illegible]

[illegible]

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[illegible]

[illegible] to the left arm, doctor?

[illegible] describe that a little more technically.

[illegible]

[illegible]

center-- or the middle of the outer surface of the left arm. There were two marks of ecchymoses, circular in shape and a quarter inch in diameter-- one was a half inch anteriorally from the vaccination mark.

Q. When you say anteriorally, what do you mean?

A. Toward the front of the body. And the other one was one and a quarter inches below the vaccination mark, and one quarter inch anteriorally from the vaccination mark. Those were small marks, and about the center of each mark there seemed to be a point where a needle or some sharp instrument had gone in.

Q. Have you any opinion, doctor, as to what caused those two marks? A. Hypodermic, I believe.

Q. Both caused by the insertion of a hypodermic needle. Proceed, doctor, as far as the left arm is concerned.

A. There was another area of ecchymosis a quarter inch in diameter on the external surface of the left arm two and a half inches above the external condyle of the humerus. The external condyle of the humerus here-- two and a half inches above that (illustrating.).

Q. You are indicating, then, the point on the outer part of the arm about four or five inches above the elbow-- the joint?

A. The elbow, as I understand it, is this point here-- but the external condyle is what we usually measure from.

Q. How far from the elbow joint?

A. About three and a half inches.

Q. All right, doctor, proceed.

A. That was all I noted on the left arm.

Q. Now, any other portion of the body have bruises on it?

A. The right and left leg and the left thigh.

Q. Take the right leg, What bruises did you find on the right leg?

A. There was a large bruise occupying th middle of the third of the anterior surface of the right leg.

Q. Will you inidicate, doctor-- just stand up please.

A. The long bones are all divided into thirds, and the middle third would be like that (illustrating),- and this, I think my measurement was seven inches long and two and a half inches at its widest point-- oval in shape.

THE COURT: Q. We commonly call that the shin bone?

A. Yes sir, over the shin bone, and to either side of the shin bone, oval in shape.

MR U'REN: Q. How far up, doctor, approximately from the instep?

A. Three and a half or four inches.

Q. Up from the instep. Are those all the marks you found on the right leg?

A. No; there were several other smaller marks, one on the external surface one inch above the external malleolus.

Q. Point that out and describe its location so a layman can understand it.

A. It is the external portion of the ankle.

Q. Proceed, doctor.

A. That was about a half inch in diameter. All these measurements were taken with a little steel tape I carry around, so they were exact-- as exact as those could be measured.

Q. Are all those the marks you found on the right leg?

A. All on the right leg.

Q. Coming to the left leg, doctor?

A. On the left leg there was a similar mark occupying the middle third of the anterior surface of the left leg and oval in shape but about six inches long, and about-- a nd three inches at its widest point.

Q. Doctor, point out the location of that bruise.

A. That occupied about this surface here (indicating).

THE COURT: Let me see, doctor. I have to see.

MR U'REN: Q. Again covering the shin bone and about how far out from the instep?

A. About three inches, above the instep.

Q. Were there any other bruises on the left leg?

A. There were several others. There were several very small ones on the anterior surface. And there was another--

Q. (Interrupting) Those small ones on the anterior surface-- Point those out on your own leg, please.

A. They were around like that (indicating). Around the other large bruise.

Q. They were above this large bruise you have just described?

A. Yes sir.

Q. And in the location of the shin bone-- over the shin bone?

A. One or two over the shin bone above here (indicating) and around the sides of the other-- not exactly contiguous, but almost.

Q. And somewhat to the left of the shin bone?

A. Yes.

Q. I see. A. There was another one which was a little

larger-- a half inch by three quarter inch in diameter which was on the inner surface of the left leg and two inches above the internal condyle.

Q. Which would be how far up from the--

A. About four and a half or five inches, I should say, from the instep-- from the inside here (indicating).

Q. And that was the inside of the left leg? A. Yes sir.

Q. Any further bruises, doctor, on the left leg? A. None.

Q. Now youhave given us a description of all the bruises that you found on the body?

A. No, on the left thigh there was alarge area of ecchymosis three quarters of an inch in diameter and three inches long, beginning at the junction of the lower and middle third of the left thigh, and running downward and outward.

Q. Will you point the location of that bruise to the court?

A. That began about here and ran outward and downward this way-- three inches (indicating).

Q. Then it was about the middle of the left thigh and ran down in that oblique direction toward the knee, but missed the knee about two inches on the outside?

A. Yes sir.

Q. And have you given us the dimension of that bruise?

A. Three inches by three quarters.

THE COURT: You said three and a half by three, I think, doctor.

A. Three quarters of an inch by three inches.

MR O'REN: Q. Now were there any other bruises on that left thigh, doctor?

A. None.

Q. Did you examine the back of the deceased?

A. There were no marks on the back.

Q. No marks on the back at all-- that is on the back of the trunk or the back of the thighs or the legs? A. No.

Q. And all the marks, discolorations or bruises you found were on the front of the body? A. Front and a little to the side.

Q. And a little to the side as youhave described. And all of these bruises that you have just described were measured with your tape?

A. Yes.

Q. Your steel tape? A. Yes.

Q. Doctor, were these bruises post-morten or ante-mortem-- that is, were they made before or after death?

MR DOMINGUEZ: That is objected to on the ground the proper foundation has not been ;aid, and incompetent, irrelevant and immaterial. He hasn't qualified here as an expert on that.

MR U'REN: Any physician in the world could testify on that.

THE COURT: Perhap s a few questions directed to the doctor would assist in the determination of his qualification on that point.

MR U'REN: I think I qualified him on that. He has been acting as an autopsy surgeon, and the S. P. Hospital.

Q. Did you ever examine bodies, doctor, for bruises?

A. Quite a number.

Q. And is this question, whether a bruise is inflicted before or after death, one of actual experience or one of medical knowledge or science?

A. Actual experience as well as medical knowledge.

Q. And it also rests upon the fact of the knowledge of circulation of blood?

A. There is no circulation of blood after death.

THE COURT: That is objected to right now, doctor. These questions were simply to test your competency to answer the question.

MR U'REN: I am just trying to prove, if your Honor please, that this is a proposition of medical science, that these bruises couldn't be made, in the nature of things, after death.

THE COURT: I think the questions youhave asked are sufficient to test the doctor's qualification. The objection is overruled. Now you can ask the question that was objected to.

(Question referred to read by the reporter).

A. Ante-mortem.

MR U'REN: Q. That is, before death? A. Yes.

Q. Were there any particular characteristics about these bruises, doctor, from the manner in which they had been made?

A. Only two on the--

MR DOMINGUEZ: Just a moment; I object to that on the ground that no foundation is laid, andincompetent, irrelevant and immaterial. I think the first part of the question is absolutely proper; the latter part of it I object to. And it is double in form.

THE COURT: I think an answer to the first part of the question will involve an answer to the last part.

MR U'REN: Q. The question will be: Were there any particular characteristics about these bruises?

A. Those two on the left arm that were near the vaccination mark, and appeared to be hypodermic-- that is, they had a little central

[illegible]

[illegible]

[illegible] to test your competency to answer the question.

[illegible]

[illegible] referred to read by the reporter).

[illegible]

[illegible], from the manner in which they had been made?

[illegible]

[illegible] involve an answer to the last part.

[illegible]

[illegible] Those two on the left arm that were near the vaccination mark, [illegible] to be hypodermic-- that is, they had a little central

point where some sharp instrument had gone in-- those were, I think, hypodermic-- results of hypodermic injections. Others on the arm appeared to me to be--

MR DOMINGUEZ: Just a moment, doctor. Heasked for characteristics, not what they appeared to be, or the cause of them.

THE COURT: Q. As to the other bruises-- can you answer as to what characteristics they possessed-- answering the question in strict conformity with the manner in which it was asked.

A. They were just bruises-- ordinary bruises-- which would mean that small blood vessels had been broken in the skin and sub-cutaneous tissues and the blood had run out into the sub-cutaneous tissues.

THE COURT: Do you want to go any further, Mr District Attorney?

MR U'REN: Q. Now doctor, have you any opinion as to the manner in which these bruises had been inflicted?

MR DOMINGUEZ: Objected to on the ground that no foundation has been laid, incompetent, irrelevant and immaterial, and not a matter of expert testimony or doctor's testimony.

MR U'REN: A man who is qualified as this man has shown himself to be qualified-- a man who has acted for years in the employ of the S.P. to take care of these bruises and injuries as they come in, and look after them, and in the very nature of things he has to know what inflicted them in order to attend them-- give them proper medical treatment and diagnose them.

THE COURT: I think your question should be preceded by another question perhaps, to this effect: Is it possible for a physician examining a body after death, and which reveals bruises, to state from the examination of the body, and the condition of those bruises,

as to what kind of an instrumentality produced those bruises?

MR U'REN: We will adopt your Honor's question.

THE COURT: Q. Can you answer that question?

A. Yes. Very frequently it is. Sometimes it is not.

MR U'REN: Q. Was it in this case?

MR DOMINGUEZ: Just a moment; we move to strike out the answer as not responsive.

THE COURT: It is an answer. He has qualified it somewhat, but it is an answer to the question.

MR U'REN: Q. In this case was it possible to make that determination?

THE COURT: Now speak entirely in answer to that, as a medical expert, of course-- that is understood all the time.

A. Well, I can only say what they appeared to me to be.

MR U'REN: Q. Well, doctor, put it this way-- of course that is all anybody can say-- From your experience in the Southern Pacific and your general practice and from your general experience and from your knowledge-- your education and your training as a physician, were you able to determine from those, in your opinion what caused those wounds?

A. I couldn't determine absolutely, no.

Q. Well, I mean generally, whether it was force, or what, that caused.

MR DOMINGUEZ: We object to that, if your Honor please, on the ground that the witness has already answered the question.

MR U'REN: I said "generally."

MR DOMINGUEZ: I object to that on the ground that it calls

for the opinion, and not based upon anything that he has observed, because a general statement of the doctor would not be of such a character that would enable him to give any opinion at all as to the cause of those bruises.

MR U'REN: You misunderstand the question. I mean as to the general nature of the wound, whether it was inflicted by a blow, or a hypodermic syringe or a red hot poker, or what.

THE COURT: He has eliminated ~~the~~ two of the small wounds. He has given causes, or reasons for those which I think was accepted. Now the question is to determine whether the doctor qualified in the way of giving the reason or cause for the other bruises which have been noted.

MR U'REN: Yes.

THE COURT: I should say this, gentlemen,-- not qualifying as an expert myself, but from my knowledge-- cursory knowledge of medicine-- that I imagine all the doctor could say, or give, would be general causes, without any particular specifications.

MR U'REN: If your Honor please, that may be your Honor's opinion, but I think that is strictly a medical proposition.

THE COURT: Well, if the doctor can be more exact, we are here to listen to him.

MR U'REN: Yes. Q. Now, doctor, will you please answer the question.

THE COURT: Perhaps in all this confusion the doctor has lost sight of the question.

(Question referred to read by the reporter).

A. My opinion--

THE COURT: The objections are overruled, and the doctor is permitted to answer that question.

A. My opinion was at the time that the small bruises on the right arm--

THE COURT: Why do you say "at the time", doctor?

A. At the time I examined the body.

Q. That opinion exists up to the present time, does it not?

A. Yes sir.

Q. Go ahead.

A. That those bruises were due to finger prints-- but as to the other bruises on the body, I was unable to tell just what agency caused them.

Q. What bruises do you say in your opinion were caused by finger prints? A. The bruises on the arms, with the exception of those two hypodermic areas.

MR UREN: Q. Doctor, I have some photographs here that you saw over at the coroner's inquest. I will hand you one and ask you if that is a correct representation of the bruise upon the arm at the time you examined the deceased?

THE COURT: Bruise upon which arm?

MR U'REN: I will get that.

MR DOMINGUEZ: We desire to offer an objection to that on the ground it is incompetent, irrelevant and immaterial and no proper foundation laid upon which to establish the fact that these photographs were made with the very object the doctor has discovered here-- and more than that, in the record here is the statement of what those bruises consist of, dimensions and all.

I will not share.

Burke upon which name

mentioned the gooseneck

I will just pun one wd nek pon it.

MR U'REN: A photograph is always admissible if anyone is able to state that that is a correct representation. You dont have to get the official photographer. We will leave it to the Court.

MR GOLDEN: A photograph is a more vivid expression, that is all.

MR U'REN: We will accept the ruling of the Court.

THE COURT: I dont think that it is necessary to have the photographer here as long as the doctor says it is a correct representation. The objection is overruled.

A. It is a correct representation of the right arm.

MR U'REN: I will ask that that be admitted as People's EXHIBIT 1.

MR DOMINGUEZ: I desire to offer an objection on the ground that no foundation has been laid for its introduction-- absolutely none in the world.

THE COURT: In admitting these photographs in evidence it is done on the doctor's statement that these photographs represent the condition that he observed.

MR U'REN: That is that the photographs represent the condition that he observed on that arm, and solely for the purpose of illustration.

MR GOLDEN: In other words, if the doctor were asked to draw an arm on the blackboard he could do so, and put on that arm the marks as he saw them. It is on that theory this photograph is introduced, and limited to that purpose.

THE COURT: Very well, it is so understood.

MR U'REN: Q. I now show you another photograph, doctor, of that arm, and ask you if that is a correct and proper representation of the bruises upon the left arm? A. It is.

MR U'REN: I also ask that that be admitted, if your Honor please, for the purpose of illustration.

THE COURT: Do you mind, gentlemen, if I ask the doctor to point out to me what he considers or notes ad the bruises on this arm?

MR U'REN: Certainly not.

MR DOMINGUEZ: None whatever.

THE COURT: Q. What do you call the bruises there, doctor? A. Those two bruises are hypodermic marks; a nd this mark right here-- the picture doesn't seem to be quite as clear-- doesn't bring out the bruises on any part of the arm quite as clear-- the picture does not bring out the bruises quite as clear as you would see them on the arm-- but the bruises are in the locations as I saw them-- a nd looked the same-- these two dark areas here.
Q. Those punctured areas? A. Yes sir.

MR GOLDEN: Pointing to two round discs.

THE WITNESS: Put in the location of the two hypodermic marks-- and this one down here being the other bruise-- When I said this one down here I pointed to one below the other-- the large defined dark area there that you see in the picture corresponds to the bruise on the arm two and a half inches above the external condyle of the left humerus.

MR U'REN: Q. I will hand you another photograph, doctor, and ask you if that portrays a correct representation of the bruises upon the legs of the deceased?
A. Yes.
Q. Just point them out and explain them to the Court.

A. This one was on the left thigh,-- this large one on the left thigh right there (pointing). And this dark area, and that dark area there for the left leg.

Q. When you say "this one ," why explain its location, and then explain its appearance so that the record will show the discoloration t which you are pointing and concerning which you are testifying.

A. I have already explained the left thigh sufficiently, I suppose.

Q. Yes. A. The two legs.

Q. Which leg are you taking first? A. The left leg. There is a discoloration in the middle third, corresponding to what I saw. And on the right leg, there is a discoloration in the middle third, corresponding to what I saw.

MR U'REN: We will ask that be marked People's Exhibit 3.

THE COURT: It is so ordered.

MR U'REN: Q. Doctor, I show you a photograph here and ask you if this is a photograph of the deceased upon whom you performed the autopsy-- that is, the head, of course?

A. It is.

MR U'REN: I ask that it be marked People's Exhibit 4.

THE COURT: May I ask counsel what is your purpose of that. There are no bruises on the head?

MR U'REN: To show the identity of the autopsy as being on the deceased, Virginia Rappe. Q. Does that finish your examination of the posterior body of the deceased?

A. There are two very small areas of ecchymosis in the left groin.

Q. Where were they located in the left groin?

A. May I read from my notes?

Q. Yes sir? A. There was one about midway between the symphysis pubis and the anterior-superior spine of the ilium.

Q. Just describe that, doctor, upon your body in terms a layman can understand.

A. Circular, and one quarter of an inch in diameter,-- the anterior superior spine of the ilium. This large bone is called the ilium-- is here (illustrating)-- and the symphysis pubis--

Q. (Interrupting) That is just forward from the hip?

A. It is the highest point in the pelvis here-- the highest point you find here.

Q. It started there? A. We draw a line from there to the middle of the body downhere at the pubic bone-- the meeting of the two pubic bones-- that line from there to there (pointing). There was one small area of ecchymosis about the center of that, about the middle of that line-- and another one a little ways from that.

Q. A little ways from that. Where, doctor?

A. It was internally. I read here and note exact-- it was one and a half inches internally from the abovementioned-- from the first one.

Q. One and a half inches toward the middle-- from the first bruise yo you just described?

A. That is in a general direction toward the middle of the body, one and a half inches exactly-- it was one half inch above the first-- above, above, and one and a quarter inches internally as an anatomist would describe it.

Q. What was the size of that, doctor?

A. A quarter of an inch in diameter, irregularly circular-- both these were.

Q. Were there any other bruisesson the body?

A. No.

Q. Now, doctor, you made a further examination, did you, of the deceased?

A. I removed the brain and found it normal, and likewise the skull was normal-- no fractures.

Q. Proceed, doctor.

A. Then I also examined the anus before opening the body. The anus was perfectly smooth and had not been lacerated. In the lower portion of the rectum and ~~exuding~~ protruding from the anus was a piece of gauze, which was removed as a specimen by me. J.F.G.

Q. Was that gauze the regular surgeon's gauze? A. Yes sir.

Q. Go ahead, doctor.

A. With the blood stain-- I removed it as a specimen.

Q. What do you mean by that term, as a specimen, doctor?

A. Well in case-- whenever a person is examining anything-- whe never I examine anything at all I like to keep it as a specimen--

Q. You physicians call them specimens, and we lawyers call them exhibits? A. Yes.

Q. What else, doctor-- proceed.

A. I enlarged this incision. I removed the sutures.

Q. When you say "I enlarged this incision" which one do you mean?

A. The incision in the abdominal wall, which I found there-- was sewed up, of course. I removed those sutures and enlarged the

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] examination, did you, of the [illegible]

[illegible] and likewise the skull [illegible]

[illegible]

[illegible] the anus before opening the body. [illegible]

[illegible] specimen by me.

[illegible] A. Yes sir.

[illegible]

[illegible] I removed it as a specimen.

[illegible] by that term, as a specimen, [illegible]

[illegible] whenever a person is examining [illegible] anything at all I like to keep it as a specimen--

[illegible]

[illegible]

[illegible]

[illegible] incision" which one do you mean?

[illegible] wall, which I found there-- was [illegible]

sutures up to the suprasternal notch.

Q. And that is what, in the language of the layman,-- the throat?

A. Well, it is at the bottom of the throat here.

Q. The Adam's Apple?

A. Below the Adam's Apple. It is the upper portion of the breast bone or sternum. It is called the suprasternal notch. That is the ordinary incision for a post mortem examination. The incision extends from the suprasternal notch to the symphysis pubis-- and opened the chest cavity and the abdominal cavity, and made an examination of the contents.

Q. In what order did you examine the interior of the body-- did you start with the chest?

A. I examined the heart first, and lungs, and bones of the chest cavity-- the ribs.

Q. Taking up your examination of the heart, what kind of an examination did you make of the heart?

A. I opened the different chambers and examined for anything abnormal.

Q. What was the result of that examination, normal or abnormal?

A. Normal.

Q. Normal heart, in all particulars? A. Oh, yes.

Q. Then what else did you do? What was the next organ you examined? A. I examined the lungs-- the lungs were almost closed with the exception of the lower lobes of both lungs, which were congested. There was a homologic congestion of the lower lobes of both lungs.

Q. Is that the usual congestion that follows death, or the

approach of death?

A. That comes on from probably an infection or something,-- sickness causes a congestion of the lungs.

A. Well, infection by peritonitis, for instance, would cause that, would it? A. Yes sir.

Q. And other than this congestion in the lower part of the lungs, the lungs were perfectly normal, were they? A. Yes.

Q. What organ did you examine next, doctor?

A. The stomach. I removed that. I found it apparently normal. I removed it and sent it to the toxicologist.

Q. To whom did you send it,-- Dr Green? A. Dr Green.

Q. Dr Green-- He is the city chemist? A. Yes sir.

Q. Then what next did you do, doctor?

A. I removed a specimen of the liver and kidney with a view that they might possibly be sent to some pathologist.

Q. Did you examine them yourself?

A. No, except microscopically.

Q. That is what I mean. You made an examination of this part you removed?

A. Yes, and they were normal so far as you could see with the naked eye.

Q. The liver was normal and the kidney was normal, so far as you could see with the naked eye, from your examination?

A. Yes sir.

Q. There was nothing indicating anything abnormal? A. No.

Q. Did you make any examination of any other organs?

A. Pancreas, spleen and intestines. They were normal.

Q. Did you make a further examination, doctor?

A. The peritoneum was roughened-- showing indications of inflammation.

Q. What is the peritoneum?

A. The peritoneum is the covering of the intestines, and also which is reflected onto the wall of the abdominal cavity.

Q. And that was in what condition?

A. Roughened, and showed evidence of inflammation.

Q. And is that such an inflammation as might result from peritonitis? A. That is what you would call it.

Q. Did you make a further examination of any organs?

A. Examined the pelvis, which I found packed with cotton,-- two large pieces of cotton,-- which came out in two pieces, I mean; the bladder; the uterus and rectum were not there.

Q. Did you subsequently get possession of the bladder and uterus?

A. Yes. Dr Ophuls sent them down before I opened the specimen. He had them sealed in a specimen jar.

Q. They were sealed in a specimen jar, and when you opened that specimen jar-- sealed specimen jar, was Dr Ophuls present?

A. I had him present so that he might see the seal broken.

Q. And the seal was broken in Dr Ophuls' presence, was it?

A. Yes.

Q. And the bladder and the uterus taken out of the jar?

A. It came out all inone piece, the bladder, uterus and rectum.

Q. Did you make an examination of the uterus?

A. Yes. Seemed to be normal.

Q. What was its general shape and condition?

A. The shape was normal.

Q. Normal size?

A. Normal size. It had been-- there had been an incision from top to bottom on the anterior surface of the uterus, and opening the cavity.

Q. And so far as you could observe from your examination, it was a perfectly normal, healthy uterus?

A. Yes sir, and likewise the tubes and the ovaries.

Q. You examined the tubes and the ovaries and they were normal in apparently a healthy person?

MR DOMINGUEZ: If your Honor please, he has been leading the witness a long time. I am going to offer this objection now-- We want the absolute truth here-- That is what we are looking for,-- and we dont intend to have this gentleman here put words into the mouth of this witness, and we ask the Court to stop it.

THE COURT: I will consider any objection that is made. I can not consider imaginary objections, where they are unannounced. Announce your objection and I will consider it. Do you object to the question as being leading?

MR DOMINGUEZ: Yes sir.

THE COURT: I think it is leading, and theobjection is sustained.

MR DOMINGUEZ: That is not an imaginary objection.

THE COURT: You are only now announcing your objection to it-- Therefore I could not imagine that you had in mind to make objections that you did not announce.

MR DOMINGUEZ: Thank you, sir.

THE COURT: The fact that I sustain your objection indicates that I think there is merit in it.

MR U'REN: Q. Doctor, what was the result of your examination of the uterus?

A. Normal.

Q. Was it healthy?

MR DOMINGUEZ: Well, that is objected to.

MR U'REN: Well, very well. Normal. Q. What was the result of your examination of the ovaries?

A. Normal.

Q. And your examination of the tubes? A. Normal.

Q. Did you examine the bladder? A. Yes.

Q. What was the condition of the bladder?

A. The bladder had been opened by an incision on the anterior surface.

Q. Which is that? A. The sub surface-- on the upper and posterior surface of the bladder, I observed a rent in the bladder-- a laceration of the wall.

THE COURT: What is that, doctor?

A. The upper and posterior surface.

MR UREN: Q. And aside from this rent-- I will withdraw that question. Did you make an examination of that rent?

A. I did.

Q. Did you measure it?

A. I measured it. I didn't measure it at the time Dr Uphuls was there, but I did afterwards.

Q. Well, what was the size of that rent?

A. It measured fully three quarters of an inch both internal and external surfaces--

THE COURT: Q. Three quarters of an inch, do you mean in length, doctor?

A. In length.

Q. Of course there would not be any width to it at all? A. No.

MR U'REN: Q. Was that the only tear or rent in the bladder other than this incision that you have mentioned?

A. Yes. It had been put into formaldehyde which shrinks the tissues.

Q. So when it was brought down to you it was in a sealed jar, and in formaldehyde? A. And alcohol.

Q. Now the cut that you describe as an incision-- what do you mean by that, doctor? A. An incision by a scalpel. Dr. Ophuls said he did it.

MR U'REN: I suppose that can go out by consent as being hearsay.

MR GOLDEN: It may stay in.

MR U'REN: Q. And now, doctor, in order to get the exact location of that rent in the bladder, will you please describe it more minutely as to the location on the bladder.

A. Well the bladder and the uterus are very closely--

Q. I am just talking about the rent -- the location being at the top, or the bottom, or the side?

A. The bladder isn't round, unless it is distended with urine. If it were round and distended with urine it would be in a direction

looking at the bladder-- looking at me, for instance, and imagining my bladddr to be full of urine, the upper portion of the bladder would be this way (indicating) and the f r nt portion would be this way (indicating) and the back portion that way (indicating). The upper surface then, would be this, and the posterior surface, this--- and the upper and posterior surface-- if this is the upper portion of this room, and that is the back portion, the upper and posterior portion would be there (pointing) at the angle where the upper and posterior portions come together, about. It is very difficult to explain.

THE COURT: I think I understand it, and I am the person that has to understand.

MR U'REN: ~~xxx~~ Is that clear to your Honor, the location?

THE COURT: Yes. Upper and posterior can only have a definite meaning.

MR GOLDEN: The upper back portion?

A. Yes.

MR U'REN: Q. Doctor, in your examination did you find any fractured ribs? A. None.

Q. How did you find the chest wall? A. Intact and normal.

Q. Did you find any evidence of any anterior wounds other than those youhave just described in any of the organs? A. None.

Q. Did you make an examination, or cut them open or anything like that? A. No.

Q. Doctor, you examined, as you stated, this rupture in this bladder. Have you any opinion, based upon your exp rience and your education, your knowledge as you have already testified here--

as to what caused that rupture?

A. Some force.

Q. An exterior or interior force?

MR DOMINGUEZ: Objected to on the ground it is leading and suggestive.

MR U'REN: It says exterior and interior.

(Last question read by the reporter)

THE COURT: Q. Can you answer that question from your medical knowledge, doctor?

A. Only from what usually causes ruptures of the bladder, and from what I have heard.

Q. Does medical knowledge furnish you with an answer to that question, whether a rupture of this kind would be caused by either external or internal force, and which? I believe that is the question, gentlemen?

MR U'REN: Yes.

THE COURT: I will overrule theobjection.

MR U'REN: Go ahead, doctor. Q. In your opinion was it caused by an interior or an exterior force?

MR DOMINGUEZ: Just a minute. I understood the court's question was the question he was to answer.

THE COURT: Oh, I just wanted to understand the question. That was all. And we will permit the question to go in the form in which it was last asked.

A. I believe it must have been an exterior force because I dont think it possible to burst ir from an interior force.

MR U'REN: Q. Well, that is your opinion, based upon your knowl-

edge, and so forth, as I have just expressed it, it was caused by an exterior force? A. Yes.

Q. This autopsy and examination by you concerning which you just testified, occurred in the city and county of San Francisco, state of California, did it? A. Yes.

Q. On the 9th day of September, 1921?

A. 9th day of September, 1921, at 8:15 P.M. at the undertaking parlors of Halsted & Company.

MR U'REN: That is all.

MR DOMINGUEZ: We have no questions to ask the witness, your Honor.

WILLIAM OPHULS

Called as a witness in behalf of the People, sworn:

MR U'REN: Q. What is your name in full, doctor?

A. William Ophuls.

Q. And where do you live? A. 114 Walnut Street.

Q. What is your profession, doctor?

A. I am a physician.

Q. And you are a graduate of what institute of learning?

A. Graduate of the institute at Goettingen, Germany.

Q. You are duly admitted to practice medicine in the state of California, doctor? A. Yes, 1898.

Q. When did you graduate from the University? A. In 1805.

Q. Have you been practicing ever since your graduation, or since your admission here? A. Ever since then, yes. I have never practiced medicine. I have been a teacher in the medical school.

Have forgotten everything I ever knew of Chemistry or the natural sciences.

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Q. What position do you hold at the present time in the medical school? A. I am professor of pathology at Stanford University.

Q. I understand, doctor, you are the dean of the college; is that correct? A. That is correct.

Q. A dean of the medical college? A. Medical school, yes.

Q. Were you called, doctor, to perform a post mortem upon the body of Virginia Rappe? A. Yes sir.

Q. When were you called?

A. It was on Friday, Admission Day, I was called to perform the autopsy at 2 o'clock in the afternoon.

Q. By whom were you called? A. Dr Rumwell.

Q. And where did you perform the autopsy?

A. At the Wakefield sanitarium on Sutter Street.

Q. In the city and county of San Francisco?

A. Yes, in the city and county of San Francisco.

Q. How did you happen to go to the Wakefield sanitarium-- were you called at 2 o'clock by Dr Rumwell, you state? A. Yes sir.

Q. And you immediately went with him?

A. I went with him.

Q. And what time did you arrive at the Wakefield Sanitarium?

A. I should judge about ten minutes past two.

Q. And just describe to the court, doctor, what you did then, from the moment you entered the sanitarium until the time that you left?

A. Dr Rumwell and myself went upstairs to the operating room where we found Dr Wakefield and several nurses. Then the body of Miss Rappe was brought in on an ambulance-- she was placed

[illegible]

[illegible] position do you hold at the present time in the medical [illegible]

[illegible]

[illegible] is correct.

[illegible] college? A. Medical school, yes.

[illegible]

[illegible] Yes sir.

[illegible] were you called?

[illegible] at 2 o'clock in the afternoon.

[illegible] A. Mr Maxwell.

[illegible] where did you perform the autopsy?

[illegible]

[illegible] the city and county of San Francisco?

[illegible], in the city and county of San Francisco.

[illegible] Yes sir.

[illegible]

[illegible]

[illegible] what time did you arrive at the Bakefield Sanitarium?

[illegible]

[illegible]

[illegible]

by the nurses on the operating table and I then proceeded to do the post mortem examination, making first a careful inspection of the body.

Q. Now at that moment, doctor, if you will pause first to describe to the court the result of your inspection of the body.

A. Well, the inspection revealed that the body was that of a young woman about twenty-five years of age, I should judge. She showed a few bruised spots on the inside of her right arm; she showed also a bruise on the left leg in front, and a similar superficial bruise on one of the thighs-- I dont remember which. Those were the only abnormal signs that I could find in thspecting the body from the outside.

Q. Now taking the bruises on the upper right arm. Will you describe them more minutely, doctor?

A. The bruises were on the inside of the arm-- two-- parallel to each other-- of a greenish bluish color-- something as if two fingers had held her on that arm rather forcibly.

Q. And now the bruises on the other arm. Did you notice any on the left arm?

A. Didn't notice any on the left arm.

Q. Now going to the thigh, doctor,-- say the right thigh.

A. I am not quite certain which thigh it was. There wax a rather indefinite, quite superficial bruise on one thigh--,and there was a more plainly marked bruise on the interior surface of the left leg near the shin.

THE COURT: We can thank this doctor for using ordinary terms.

MR U'REN: Q. You described all these bruises, doctor. You

found no other bruises? A. That is all I saw.

Q. Then what did you proceed to do?

A. I made an incision through the skin in front in the median line extending from about the middle of the chest down to the lower end of the abdomen. And before I made the incision I noticed that the abdomen was moderately distended-- and when I got into it a fairly clear fluid ran out, of which there was easily a quart came out of the abdominal cavity, and had some few flakes of matter in it. And after exposing the interior of the abdomen I noticed that the lining of the abdominal cavity-- the peritoneum was very much inflamed and full of blood. Then inspecting carefully to see what the cause of the inflammation of the peritoneum might be, I found a small opening in the lining of the membrane of the abdominal cavity on the posterior surface of the bladder right near the dome of the bladder. The opening was about, I should judge, about an eighth of an inch in diameter, fairly round, and was surrounded by inflammatory deposits that formed a ring around the opening about the size of a dollar. Then we removed the viscera in the pelvis, and cutting open the bladder I found on the inside, corresponding to the opening on the outside, a longitudinal break.

Q. You say corresponding-- do you mean directly opposite each other?

A. Opposite each other.

Q. But you dont mean by that they were exactly the same size?

A. No. The break on the inside was a good deal longer-- it was not round, but elongated, and I should imagine about an inch and a half long, and went clear through the wall of the bladder-- the

found no other purpose? : A. That is all I saw.

Q. Then what did you proceed to do?

inner lining and the muscular tissue of the bladder, and opened right underneath the little hole in the lining membrane of the abdomen-- and went clear through the wall of the bladder-- the inner lining and the muscular tissue of the bladder, and opened right underneath the little hole in the lining membrane of the abdomen, and that fluid could run through the interior of the bladder through the little opening out into the belly cavity.

Q. Proceed. What did you do next-- what did you see?

A. The tear in the bladder wall did not seem to be quite fresh, but it was not very old, either, because it was not lined with any visible amount of new tissue. We then investigated the--

Q. Before we leave that, doctor, and right there-- will you tell us what, in your opinion, the age of this tear was?

MR DOMINGUEZ: That is objected to on the ground that no foundation is laid, and incompetent, irrelevant and immaterial.

MR U'REN: Everybody up here knows Dr Ophuls and his reputation and standing.

MR DOMINGUEZ: I think I know the doctor's reputation here as well as yourself-- quite an eminent doctor.

THE COURT: A few preliminary questions will probably satisfy the mind of the court as to the qualifications of the doctor.

MR U'REN: Q. Is it possible, from an examination of a wound like that, to determine the approximate time within which it had been inflicted or caused?

A. Within certain limits one can tell-- not very exactly, but approximately.

Q. Approximately. That is, you can tell it had not been caused within a certain point-- or had not been caused within a certain time?

A. I think one can safely say that, yes.

Q. Now, from your examination of the wound, doctor, what was the age of this tear?

A. Well, as I say, one can state only in very approximate terms.

THE COURT: In days, as to recentness, or remotenss I presume you can state it?

A. Yes, I think one can state that the tear was possibly a day or two old at least, and not over ten or twelve days. Then after the inspection of the bladder we investigated the genital organs and made a careful inspection of them throughout and found them entirely intact, without any signs of disease except the Fallopian tubes were badly inflamed-- that is, I mean they were congested in blood, which I attributed to the existence of the inflammation in the body and cavity in which these tubes are situated. And the uterus and vagina and the vulva were apparently perfectly normal. We then proceeded to open the rectum and that was perfectly normal-- contained a small amount ot normal fetid material. After that I made a thorough inspection of the rest of the abdominal cavity in order to determine whether there were any other changes noticeable. I palpated the kidneys, the spleen and the liver, and looked over the intestines, and didn't find any changes there. I may say I also made a careful investigation of the interior abdominal wall-- dissecting the skin from muscles and exposing the fat underneath the skin for quite a distance on either side of the incision in the center of the abdomen, and did not find any

changes in the anterior abdominal wall that I could notice.

Q. Is that the result of your examination, doctor-- is that the whole examination?

A. I think that is all that I did.

Q. Now going back to the bladder. Did you find any deposits in it at all? A. I beg your pardon?

Q. Did you find any deposits in the bladder at all?

A. Yes, there was a clotted piece of blood-- oh, about the size --a third of a lead pencil long, and rather thicker than that,-- fairly dried-- evidently a clot that had been in there for a day or two anyhow.

Q. It was a day or two old, in your opinion? A. At least.

Q. Now about the rent or tear-- were there any deposits of any kind? A. No, it was a clean break. I did not notice any. There may have been a few very small clots adhering to it, but I am not absolutely positive.

Q. Did you find any evidence of peritonitis in the body?

A. Yes, there was a defined inflammation of the peritoneum, of a moderate degree.

Q. Doctor, from your examination, and excluding the tear in the bladder, would you say all of the organs of the deceased were normal or abnormal, healthy or diseased?

A. All that I saw and felt seemed to be perfectly normal. I did not make an examination of the chest.

Q. But those you have described were in your opinion perfectly normal? A. Yes.

Q. Doctor, what in your opinion caused the death of the deceased?

A. My opinion, rupture of the bladder.

Q. And what, in your opinion, doctor, caused the rupture of the bladder?

A. Well, one naturally can only surmise what caused--

THE COURT: Q. Is your surmise founded on medical experience, doctor?

A. Yes sir.

Q. Or is it a layman's surmise?

A. No; it is founded on medical experience.

MR GOLDEN: I think perhaps the word "surmise" is wrong--speaking loosely.

THE COURT: All right. Answer the question.

MR U'REN: Answer the question, doctor.

A. The natural assumption from a medical point of view, that the bladder had been over-distended and then probably exposed to some force from the outside.

MR U'REN: That is all.

MR DOMINGUEZ: That is all.

PERCY R. HENNESSY

Called as a witness on behalf of the People, sworn.

MR U'REN: Q. Your name in full, please.

A. Percy R. Henderson.

Q. Where do you live? A. 1515 Cole Street.

Q. Youhave an official position here in the city?

A. I have.

Q. What is that?

A. I am auditor for the Department of Public Health.

Q. Have you in your possession the record of the death of Virginia Rappe? A. I have.

Q. Will you produce it, please?

(Witness produces document)

MR U'REN: We will ask that this be admitted and marked an appropriate number.

THE COURT: Any objection, counsel?

MR DOMINGUEZ: None at all, your Honor.

THE COURT: There being no objection this will be admitted in evidence and marked People's Exhibit No. 5.

MR DOMINGUEZ: Of course it is understood that we do not admit or stipulate that any of the purported facts upon that statement are correct, or the truth-- of course that is understood.

MR U'REN: It is understood it is an official record of the death.

MR DOMINGUEZ: That is understood.

MR U'REN: That is all, Mr Hennessy.

GRACE EUGENE HALSTON

Called as a witness on behalf of the People, sworn.

MR U'REN: Q. Your full name, please?

A. Grace Eugene Halston.

Q. Where do you live? A. 1065 Sutter Street-- the Wakefield Hospital.

Q. What is your business or occupation? A. Nurse.

Q. Howlong have you been such? A. About 10 years.

Q. Are you a graduate nurse? A. I am not.

Q. You have practical experience?

A. I have stood my final examination and passed, but I had three months to make up in the hospital in which I trained, and due to trouble in health I came west.

Q. And how long have you been with Dr. Wakefield?

A. I have been with Dr. Wakefield since the first of January.

Q. Of 1921? A. Yes.

Q. What was your position with Dr Wakefield on September 9th, 1921?

A. Surgical nurse.

Q. And do you remember the occurrence of Virginia Rappe being brought to the hospital?

A. I dont remember of Virginia Rappe being brought to the hospital, but I heard of her entrance to the hospital.

Q. When did you first see her in the hospital?

A. The first day that she was admitted to the hospital.

Q. When was that? A. That was on the Thursday--

Q. Thursday--

A. I saw her the first time Thursday morning.

Q. And where did you see her? A. In her room.

Q. And when did you see her again? A. Friday morning.

Q. And where did you see her then? A. In her room.

Q. And did you see her again during her lifetime? A. No.

Q. And did you see her after her death? A. Yes sir.

Q. Where? A. First in her room, then in the surgery.

Q. Later in the surgery. What was the occasion of your going to her room? A. On which-- which time?

Q. After her death?

A. After death, to transfer her from the bed to the guerney.

Q. What is the guerney?

A. The guerney is the car on which they take the patients to the operating room.

Q. Who was with you at that time; who assisted you, if anyone?

A. I dont know who the nurses were that assisted me. I called in two nurses off the floor, and I dont know which nurses assisted me.

Q. And you had charge of the transfer, did you? A. Yes.

Q. Did you make any examination of Miss Rappe's body in her room?

A. I did not.

Q. And then I assume that you merely took her from her room to the surgery at that time? A. Yes sir.

Q. Now did you assist in the autopsy? A. Yes.

Q. In what capacity?

A. I helped Dr. Orphuls turn the body and lift the arms, and so forth.

Q. Now who was present at the autopsy besides yourself?

A. Dr Ophuls, Dr. Rumwell, Dr. Wakefield, Miss Forti and myself.

Q. Who is Miss Forti?

A. Miss Forti is another operating room nurse.

Q. Now you say that you assisted Dr. Ophuls in the autopsy. Just tell the court what you did a nd what you saw Dr. Ophuls do at that time.

A. The patient was examined; the patient's body and limbs were examined; and then the autopsy operation was performed.

Q. Did you assist in the examination? A. Yes sir.

Q. What was done first?

A. The arms were examined.

Q. Did you see the arms? A. Yes sir.

Q. What was the result of that examination that you saw?

A. Two large bruises on the right arm, and one large bruise on the left arm.

Q. Any bruises on the body other than those?

A. I did not see any. There was so much discoloration around the shoulders that any marks that might have been around the shoulders--

MR DOMINGUEZ: Just a moment; we object to anything that might have been.

MR U'REN: Yes, that is a conclusion. Let the rest of the answer go out.

A. I couldn't see any marks if there were any.

MR U'REN: Q. Did Dr. Ophuls examine the back of the body?

A. Yes sir.

MR DOMINGUEZ: Just a moment.

THE COURT: What is the necessity of this testimony. It isn't necessary to check up on Dr. Ophuls' testimony, is it?

MR U'REN: No.

THE COURT: As long as the doctor testified to these things, I think you are simply covering the same ground.

MR U'REN: If your Honor please, we want this testimony of record in full. We have an object in it. Q. Did you see any bruises on the back of the body? A. I did not.

Q. Did you examine the lower limbs at all?

A. Yes.

Q. Did you see any bruises on any of the lower limbs?

A. Yes.

Q. Where? A. One large bruise on the left limb about half way between the knee and the hip, and some minor bruises around the lower limbs, but just where I dont know exactly.

Q. And did you see any upon the right leg?

A. I did not.

Q. Or the right thigh?

A. There were some minor bruises on both lower limbs, but I can not say exactly where each minor bruise was.

Q. Upon the thigh, Miss Halston, did you see any bruise?

A. I dont remember of seeing any bruises on the thigh.

Q. Did you see Dr Ophuls make any incision? A. Yes.

Q. Just desfribe briefly what you saw him do?

A. He made an incision from the breast bone down to the pelvis bone.

Q. Did he remove any organs? A. Yes.

Q. What organs? A. All of the organs from the pelvic cavity.

Q. Did you see the bladder? A. Yes sir.

Q. Did you notice its condition? A. Yes sir.

Q. What was its condition?

A. A rupture in the upper back part of the bladder about three quarters of an inch in length. The rupture was about three quarters of an inch.

Q. Other than this rupture in the bladder what was its condition as to being healthy or diseased?

A. I didn't exactly get that question.

Q. I have a specific fact about Jupiter.

A. Is Jupiter being discussed?

Q. Is the same life existing in the bladder when its condition

improves or not?

A. Please rephrase the question. The light and air around there

Q. I forgot to ask about Jupiter's gravity.

Q. What was the condition?

Q. Did you notice the condition? A. You did.

Q. Did the air in Cleveland A. Yes it.

Q. Only because A. All of the stones from the urine build.

A. Yes.

Q. Did he remove any stones

A.

Q. Is there any life on Jupiter? A. Yes.

Q. Is there anything else I can ask you

Q. Do you see any prisons on any of the lower limbs?

A. Yes.

Q. Can you see any of the lower limbs?

A. Yes.

Q. Do you see any prisons on both lower limbs, but I can

not see exactly where each minor prison was.

A. Since the bigb, like before, did you see any bodies

Q. I just remember of seeing any prisons on the bigb.

A. Did you see Dr Gerald with any instrument A. Yes.

Q. Was anything briefly wrong with you

Q. Is there any life on Jupiter that can be like on the earth

Q. Did he remove any stones

A.

Q. Did you notice Dr Gerald A. Yes.

Q. Did you see the

(Last question read by the reporter)

MR DOMINGUEZ; I object to that on the ground no foundation has been laid, and immaterial, irrelevant and incompetent.

THE COURT: I think the objection is perfectly valid.

MR U'REN: Q. Have you ever had any other experience in post mortems?

A. Yes sir.

Q. Examinationsof organs of the body? A. Yes sir.

Q. Have you made examinations of them for the purpose of determining whether they were diseased or healthy?

A. Yes sir, I have studied that.

Q. And that has been along your line of work? A. Yes.

Q. And this bladder you sa there was something you saw with your own eyes? A. Yes sir.

Q. And were youable to determine from that examination, or that sight you saw, whether it was healthy or diseased? A. Yes.

THE COURT: Q. Miss Halston, you were not there for the purpose of arriving at any determination yourself as to the condition of the body or the cause of death-- you were simply there to assist Dr Ophuls in handling the body, were you not? m

A. Yes.

MR U'REN: What difference does it make, if your Honor please, what the purpose of her being there was, if she actually saw it with her own eyes, and had the knowledge and is able to determine?

THE COURT: You already have this testimony in the record-- I dont see the necessity of this young lady testifying as a medical fact of that character in view of the fact that Dr Ophuls who is

(Last question read by the reporter)

[illegible]: I object to that on the ground on foundation [illegible], and immaterial, irrelevant and incompetent.

THE COURT: I think the objection is perfectly valid.

MR O'KEEN: Q. Have you ever had any other [illegible] in most [illegible]?

A. Yes sir.

Q. Examinations [illegible] of the body? A. Yes sir.

Q. Have you made examinations of them for the purpose of determining whether they have Alzheimer or healthy?

A. Yes sir, I have studied them.

Q. And that has been along your line of work? A. Yes.

Q. And this bladder you do [illegible] there was something you saw with your [illegible]? A. Yes sir.

Q. [illegible] to determine from that examination, or that [illegible] you saw, whether it was healthy or Alzheimer? A. Yes.

MR O'KEEN: Q. Also Salzman, you were not there for the purpose of [illegible] of any examination yourself as to the condition of the body or the cause of death-- you were simply there to assist Dr Ophuls in handling the body, were you not? A. Yes.

MR O'KEEN: That difference [illegible] it make, if your [illegible] [illegible], [illegible] [illegible] [illegible] [illegible], if the [illegible] [illegible] it with [illegible], and had the knowledge and [illegible] to determine?

MR O'KEEN: You already have this testi ony in the record-- I [illegible] of this young lady testifying to a medical [illegible] of the fact that Dr Ophuls who is

qualified-- giving his opinion-- which is certainly superior to that of the young lady, no matter how qualified she might be as a nurse. I dont know that she is qualified to testify as to more scientific facts.

MR U'REN: But we have an object in getting the testimony in, if your Honor please. It is legally admissible. There is no question about that. And there is such a thing as death occurring, and wex want to preserve the record in this case. We want to put the record in xxxx and have it in such shape that it will be there permanently for future use, if necessary.

MR DOMINGUEZ: The testimony of Dr. Ophuls, so far as we know now, is eternal. That can be used in any Superior Court. I have no objection to it.

THE COURT: Theobjection is withdrawn.

MRrDOMINGUEZ: I didn't offer any objection, your Honor, myself.

MR U'REN: Q. Was is healthy or diseased.

A. According to my experience I would say that they were perfectly healthy.

Q. Now referring to the other organs that were removed-- just name them, please?

A. Other than the bladder?

Q. Yes.

A. The bladder, the female organs, and the rectum.

Q. Did you make an examination of the female organs? A. Yes.

Q. Were they healthy or diseased?

A. As near as I can judge, they were healthy.

Q. Now Miss Halston, getting back to the proposition of the wound

upon the right arm-- what was the general appearance and shape of it? A. As though there had been a very forcible grip--

MR DOMINGUEZ: We object to that on the ground it is purely the conclusion of the witness, and not answering the question.

MR U'REN: She was describing the wound.

THE COURT: But she followed it with her conclusions.

MR GOLDEN: She was merely describing their appearance.

THE COURT: She used the words " as if" and followed it with another statement.

MR DOMINGUEZ: May that be stricken out?

MR GOLDEN: Just let us have the question and the answer before it is stricken out.

THE COURT: Mr. Reporter, read the question and the answer.

(Reporter reads last question and answer).

MR U'REN: It seems to me it is describing, if your Honor please, the appearance of a wound that any layman could describe.

MR DOMINGUEZ: If they can lay the proper foundation for this young lady to testify, that is another story.

THE COURT: I want to ask you this, Mr District Attorney:, what right has this lady to say that the bruises were caused by a grip? Now the word "grip" conveys something to the mind. Couldn't possibly these bruises have been the result of some other external force than a grip?

MR UREN: That is just the point, that they were such wounds, of such a nature that they were caused by a grip and nothing else. She is describing the nature of them as they appeared to her eye-- the description and the appearance of them from her eye.

THE COURT: If you ask the witness why she thinks, in her opinion, the signs were caused by a grip and not from other form of violence or force, I would allow the question.

MR DOMINGUEZ: I think the first question should be answered as it is asked. Afterwards if they lay the foundation to ask the question your Honor suggested, she may be permitted to answer the first question first-- could describe the characteristics of the bruises. Then if your Honor permits the other question afterwards over our objection, well and good.

THE COURT: I think that is perfectly proper and only fair.

MR U'REN: Q. Will you describe the appearance of this bruise upon the right arm-- I mean by that as to whether it was round, circular, or pin ppint, or oblique, or what?

A. They were about three quarters of an inch in width-- one was approxiiately three inches long, and theother one approximately two and three quarters of an inch long.

THE COURT: Q. How many were there in all, then?

A. Two on the right arm.

Q. They were elongated were they, bruises? A. Yes sir.

Q. Were they parallel to each other? A. Yes sir.

Q. And what distance apart?

A. Og, approximately half an inch-- or that much.

Q. Was there a distinct space between the two bruises?

A. Yes sir.

THE COURT: Go ahead, Mr District Attorney.

MR U'REN: Q. Have you any opinion, from the appearance of the bruises, as to what caused them?

[illegible]: If you saw the witness why she thinks, in her [illegible], the signs were caused by a grip and not from other form of violence or force, I could allow the question.

[illegible]: I think the first question should be answered as it is asked. Afterwards if they lay the foundation to ask the question your Honor suggested, she may be permitted to answer the first question first— could describe the characteristics of the [illegible]. Then if your Honor permits the other question afterwards even one objection, well and good.

[illegible]: I think that is perfectly proper and only fair.

[illegible]: Q. Will you describe the appearance of this bruise upon the right knee— I mean to that as to whether it was round, circular, or pin point, or oblique, or what?

A. They were about three quarters of an inch in width— one was approximately three inches long, and therefore was approximately two and three quarters of an inch long.

[illegible]: Q. How many were there in all, then?

A. Not on the right knee.

Q. They were elongated were they, bruises? A. Yes sir.

Q. Were they parallel to each other? A. Yes sir.

Q. And what distance apart?

A. Oh, approximately half an inch— or that much.

Q. [illegible]

A. Yes sir.

[illegible]: Go ahead, Mr District Attorney.

[illegible]: Q. [illegible], [illegible] the appearance of the [illegible], [illegible] the [illegible] [illegible]?

MR DOMINGUEZ: That may be answered by yes or no, if your Honor please.

THE COURT: Answer that question yes or no.

(Last question read by the reporter.)

MR U'REN: Answer that yes or no, and then give your explanation afterwards if you have one, Miss Halston.

A. Yes sir.

Q. What is the explanation-- what caused them?

MR DOMINGUEZ; We object to that on the ground that it is immaterial and incompetent, and the proper foundation not laid, and calling for the opinion of the witness-- calling for a conclusion.

MR U'REN: I understood that counsel had consented.

MR DOMINGUEZ: Oh, no.

MR U'REN: Now that she has been permitted to answer the first question with the consent of counsel she certainly has a right to explain her answer.

MR DOMINGUEZ: I think my learned friend misunderstood me, your Honor.

THE COURT: Listen, counsel, this is my opinion: The lady has answered the questions as to the position and character of the bruises as to their shape and positions as to one another, and perhaps from her description the court is able to come to as fair a conclusion as the witness. I dont see how a witness can ascribe the cause of bruises of this kind just from their appearance.

MR U'REN: This was the point, if your Honor please. The witness saw the bruises and saw the marks. Just like the mark on a

tree, for instance, a witness may come into court and say there was a mark on the tree-- it would mean nothing-- but if a witness came in and said it had the same appearance and shape of a finger mark, it would throw more light on it-- and I am asking, from the appearance of the bruise itself--

THE COURT: Well, I will allow the question, but I will frankly say that I dont consider that the answer carries with it very much conviction, assuming, as I do, that the answer is going to be what I expect the District Attorney thinks it will be. You may answer the question.

A. May I make motion on my arm?

THE COURT: Yes, madam.

A. Just as though it was these two fingers like this, at this place right here (indicating).

MR U'REN: Q. Which two fingers were you talking about?

A. I think it was these two fingers, because one mark was longer than the other one.

Q. You are speaking of which fingers-- thumb--

A. First and second finger.

THE COURT: Q. You say one of the marks extended further in back of the arm than the other one?

A. Yes sir, this way, like that (indicating).

MR U'REN: Q. Miss Halston, did you bring the hospital records with you?

A. I did not bring them.

Q. They are here? A. Yes sir.

Q. Do you know them? A. Yes.

Q. Miss Halston, you have in your hand certain documents?

A. Yes sir.

Q. What are they? First, how many are they in number?

A. Four including the counts of the blood and the urine.

Q. Miss Halston, introduce them one by one-- hand to the court first-- first take the first document youhave-- unpin them.

A. I know nothing about this one (showing).

MR GOLDEN: Perhaps counsel will stipulate they are the hospital records, subject to correction.

THE WITNESS: This I know nothing about. I haven't seen it before (showing).

MR U'REN: Q. This one question: Are those documents youhave there all pinned together, the hospital records of Miss Rappe's illness and her death?

A. I suppose they are-- documents-- but these I haven't seen before (showing).

MR DOMINGUEZ: I move it be stricken out, your Honor.

MR U'REN: Q. Separate those youhave any knowledge of, please, and retain them in your possession-- put together those you know are the hospital records.

Now I think, if your Honor please, the witness does not seem to be familiar with these-- we will withdraw them at this time, and put them in in the morning.

(Further proceedings continued until tomorrow, Friday, September 23d at 2 o'clock P.M.)

[illegible] in your hand certain documents?

[illegible]

[illegible]

[illegible]

[illegible] them one by one -- hand to the court [illegible] -- [illegible] them.

[illegible]

[illegible] records, subject to correction.

[illegible] (showing).

[illegible]

[illegible]

MR DEMINGUES: I move it be stricken out, your honor.

[illegible] the hospital records.

[illegible]

[illegible]

IN THE POLICE COURT OF THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, DEPARTMENT NO. 2.

Honorable Sylvain J. Lazarus, JUDGE.

THE PEOPLE OF THE STATE OF CALIFORNIA)
)
vs.) MURDER.
)
ROSCOE ARBUCKLE)

FRIDAY, SEPTEMBER 23d, 1921

THE COURT: The People against Arbuckle. Proceed, gentlemen. Before we proceed, gentlemen, I wish to voice the expression I indulged in yesterday, that no demonstration of any kind will be tolerated from any spectator or spectators. Any such, indicating any feeling or disposition one way or the other regarding this case will be regarded as a contempt of this court and punished as such.

AL SEMNACHER

Called as a witness on behalf of the People, sworn:

MR GOODEN: Q What is your name, Mr. Semnacher?

A. Al Semnacher.

Q. Where do you live? A. Los Angeles.

Q. What street and number? A. 2001 Inchurst Road.

Q. Did you know Virginia Rappe in her lifetime? A. Yes, sir.

Q. How long have you known her? A. About five years.

Q. Did you know a woman by the name of Mrs. Belmont?

A. Yes, sir.

Q. How long have you known her?

A. I met her three times in four years.

Q. Do you recall that you accompanied these two ladies from Los Angeles to San Francisco recently? A. Very well.

Q. When did you and these ladies arrive in San Francisco?

A. September 4th, 11 P.M.

Q. What hotel did you stop at when you got to San Francisco?

A. Palace Hotel.

Q. Do you recall that you accompanied these ladies from the Palace Hotel to the St Francis? A. Yes, sir.

Q. Will you tell us how it happened that you and these two ladies left the Palace to go to the St. Francis?

A. While at breakfast that morning approximately 11 o'clock --

THE COURT: Q What morning was that?

A. September 5th. Miss Rappe was paged. She went to the telephone and returned in a few moments stating--

MR DOMINGUEZ: Just a moment.

MR GOLDEN: Never mind what she said. It is not admissible.

Q. You and Mrs. Delmont and Miss Rappe had breakfast together at the Palace Hotel, 11 o'clock Monday, September 5th?

A. Yes, sir.

Q. In the morning? A. In the morning.

Q. After Miss Rappe had been paged for a telephone message and she returned then, did you and the two ladies, Mrs. Delmont and Miss Rappe go to the St. Francis?

A. I drove them to the St. Francis where I left them.

7. I [illegible] it. Frantic where I left them.

[illegible] to the 3d. Frantic

[illegible] [illegible] you saw the two ladies, Mrs. Dimond and

[illegible] [illegible] [illegible] [illegible] used for a telegram or message and

[illegible] [illegible] [illegible] [

Q. You say you left them at the St. Francis Hotel?

A. Left them at the St. Francis Hotel.

Q. Did they go into the hotel?

A. They entered the hotel, I presume.

Q. Approximately what time was it?

MR DOMINGUEZ: I move to strike out the last part of that answer.

MR GOLDEN: "I presume?"

MR DOMINGUEZ: Yes.

(Last question and answer read by the reporter)

MR GOLDEN: Q. Did you see them go into the hotel?

A. I didn't see them enter the hotel.

Q. Approximately, what time was it when you left the ladies at the hotel? A. About twelve o'clock.

Q. Noon? A. Noon.

Q. Where did you go?

A. I went down Market street, parked my car, and then walked down Market street and stopped at picture houses.

Q. Did you go back to the St. Francis Hotel--

A. Yes, sir.

Q. (Continuing) -after having left the ladies there?

A. Yes, sir.

MR DOMINGUEZ: Just a moment. There is no testimony he left the ladies at the St. Francis.

MR GOLDEN: At the hotel. Q. When you came back to the St. Francis hotel, where did you go?

A. To the hotel telephone in the St. Francis Hotel.

Q. Did you call up anybody?

A. Called up Room 1220.

Q. Room 1220? A. Yes, sir.

THE COURT: Q What time was that?

A. That must have been between 1:30 and 2 o'clock.

MR [illegible]: Q In the afternoon of September 5th?

A. In the afternoon.

Q. And who did you talk to over the telephone between 1:30 and 2 o'clock? A. Mr. Fishbuck.

Q. Never mind what he said to you or what you said to him - that is hearsay. After talking to Mr. Fishbuck upon the telephone, -- that is the hotel house phone I understand -- correct?

A. Correct.

Q. Then where did you go?

A. I was invited to come up to Room 1220.

MR DOMINGUEZ: Just a moment.

MR [illegible]: We will have it out, Mr. Dominguez, if you want it out.

THE COURT: It is already in.

MR DOMINGUEZ: Let it stay in then.

MR [illegible]: Q At any rate you went up to Room 1220,-correct

A. Correct.

Q. Now when you got into Room 1220, St. Francis Hotel, who did you see there? A. Seven or eight people.

Q. Please give us their names?

A. Mr. Arbuckle --

Q. That is the defendant? A. The defendant. Mr. Sherman; Mr.

Fishback--

Q. Sherman is Lowell Sherman? A. Lowell Sherman.

Q. What is Fishback's full name? A. Fred Fishback.

Q. Who else? A. Ira Fortlouis.

Q. Who else? A. And Miss Rappe.

Q. Miss Virginia Rappe? A. Virginia Rappe. Mrs. Maude Delmont, Miss Provost --Zee or Zay Provost; Alice Blake; and Mrs. Taube. And I think one or two others, but I am not quite positive.

Q. How was the defendant clad when you came into the room?

A. He was sitting at a table eating.

Q. How was he dressed?

A. I was just getting to that. He had on pajamas, slippers and a bathrobe.

Q. How was Mr. Sherman dressed?

A. In the same--

MR DOMINGUEZ: That is objected to on the ground it is immaterial.

MR GOLDEN: All part of the transaction, if your Honor please. They were all participants.

MR DOMINGUEZ: Mr. Sherman is not a defendant here -- the way he was dressed is immaterial.

MR GOLDEN: It doesn't make any difference, if the court please, we have the right to show everything that took place in that room and everything that took place in that room in the Arbuckle experiments.

MR DOMINGUEZ: We withdraw the objection.

MR GOLDEN: Answer the question, please.

A. The same as Mr. Arbuckle--pajamas, slippers, and bathrobe.

Q. How were the other men dressed?

A. In their street attire.

Q. How were the women dressed?

A. All were dressed in their street attire with the exception of Mrs. Delmont.

Q. What were the people doing when you came into the room?

A. Eating.

Q. Anything else? A. Some were partaking of some liquid.

Q. What is that? A. Some were partaking of some liquid.

Q. What kind of liquid?

MR. MILLIGAN: Just a moment -- if he knows -- no proper foundation laid.

MR. [illegible]: If you know what they were drinking --were they drinking water?

A. No, it was orange juice. It could have contained gin or anything else.

Q. Were the parties talking? A. Naturally.

Q. Any dancing? A. Not at that time.

Q. Any singing? A. No, sir.

Q. Any music? A. None at all.

Q. Were they standing up or sitting down, or how were they distributed? A. Everyone was eating.

Q. Everyone was having something to eat?

A. Yes -- except Mrs. Delmont.

Q. How long did you stay in the rooms at that time?

A. Between half an hour and an hour.

Q. Did you talk to the defendant, Mr. Arbuckle while you were in there? A. Certainly.

Q. Did he tell you he was stopping at that hotel?

MR DOMINGUES: Just a moment. Now let us have the proper foundation laid for that. Please do not suggest a question by which he might give you a ready answer. I want the foundation laid, if your Honor please. I would like the martial present, and the time and all that sort of business. Let us see who heard that conversation.

MR [illegible]: He already testified, Mr. Dominguez, that he was in the St. Francis.

THE COURT: I think the foundation was laid.

MR [illegible]: Foundation laid and plenty of mortar and cement in.

Q. Mr. Semmacher, did Mr. Arbuckle tell you he was stopping at the hotel?

A. He didn't have to tell me that.

MR DOMINGUES: I consider that question very suggestive and leading.

THE COURT: It was leading.

MR [illegible]: Was anything said in reference to whose apartments they were, or who was occupying them?

A. I never questioned them.

Q. You say you stayed there about half an hour or so?

A. Could have been an hour.

Q. After you came into those apartments, did anyone else enter?

A. I didn't pay enough if they did or not, because we were all sitting there eating.

Q. Did you have anything to eat?

A. Yes, sir, but I couldn't tell you what it was.

[illegible] stopping at that hotel?

[illegible]. Now let us have the [illegible] [illegible]. Please do not suggest a question by [illegible]. I would like the parties present, and the [illegible] sort of business. Let us see who heard that [illegible].

[illegible] already testified, Mr. [illegible], that he was in [illegible].

[illegible]

[illegible] foundation said and plenty of mortar and cement in.

[illegible] Mr. [illegible], did Mr. [illegible] tell you he was stopping at the [illegible]?

[illegible] have to tell me that.

[illegible]: I consider that question very suggestive and [illegible].

[illegible]

[illegible] was anything said in reference to those apartments [illegible]

[illegible] questioned them.

[illegible] stayed there about half an hour or so?

[illegible] have been an hour.

[illegible]

[illegible] if they did or not, because we were all sitting [illegible]

[illegible]

[illegible]

Q. Did you have anything to drink? A. Coffee.

Q. You left the hotel, did you? A. Yes, sir.

Q. Did anyone go with you?

A. Mr. Portlouis--no, I took Miss Alice Blake to Tait's, where she had a rehersal.

Q. After you took Miss Blake to Tait's for a rehersal, did you again visit these apartments in the St. Francis Hotel?

A. Yes, bringing Miss Blake back.

Q. How long were you gone with Miss Blake?

A. About 20 minutes.

Q. And then you and she came back to the hotel? A. Yes, sir.

Q. Did you go up to those rooms? A. Yes, sir.

Q. About what time was it when you came back to the rooms in the St. Francis Hotel?

A. I judge around three o'clock.

Q. I mean after you came back with Miss Blake?

A. About around three o'clock. It could have been before or after.

Q. And when you came back with Miss Blake, give us the names of the people who were in those rooms.

A. In addition to those mentioned before, I believe a Miss Clark, and a Miss Campbell were there.

Q. When you came back with Miss Blake had anyone who was in the rooms previously, departed? A. I don't remember.

Q. Then everybody whom you have previously mentioned as having been in the rooms were there when you got back, in addition to this Miss Clark, and what is the name of the other one?

A. Miss Campbell.

Q. Miss Campbell -- is that right?

[illegible]

[illegible]

[illegible]

[illegible] I took Miss Alice Blake to Tait's, where [illegible]

[illegible] Miss Blake to Tait's for a rehearsal, did you [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

And then you and she came back to the hotel? A. Yes, sir.

[illegible]

About what time was it when you came back to the rooms in the St. Francis hotel?

[illegible]

I mean after you came back with Miss Blake?

[illegible]

[illegible]

[illegible]

[illegible] Campbell were there.

[illegible] you came back with Miss Blake had anyone who was in the [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] is that right?

A. It is not, because I just stated I don't who departed, or if anyone departed.

Q. I am going to ask you the question: Were all the people who were in the room when you first came there between 1:30 and 2 o'clock in the afternoon present when you returned with Miss Blake from Tait's?

A. That I can not answer, because I don't know.

Q. Can you give us the name of anybody now that you remember who had gone away - who was present when you came into the room between 1:30 and 2 o'clock, who had gone away when you came back from Tait's with Miss Blake? A. No, I can not.

Q. Please repeat, if you can, the names of everyone who were present -- who was present when you came back to those rooms with Miss Blake.

A. Miss Kappe, Mrs. Belmont, Miss Blake, Miss Provost, Miss Clark, Miss Campbell, Mr. Sherman, Mr. Fishbeck, Mr. Portlouis and myself.

Q. Anyone else?

A. There could have been, but I don't know whether there were or not.

Q. Now repeat the names again, of all those who were present when you first got there between 1:30 and 2.

A. Those people I have just mentioned.

Q. Just give us the names again, please.

A. Mr. Arbuckle, Mr. Sherman, Mr. Portlouis, Mr. Fishbeck, myself, Miss Blake, Miss Provost, Miss Kappe, Mrs. Belmont.

Q. That is all? A. Mrs. Taube and one or two others.

Q. Was Mrs. Taube there when you got back with Miss Blake?

Mr. Jones, please move them not over with Miss Jones.

Just in all ? Mrs. Jones had a bit upset.

Miss Green, Jones, Green, Miss Green, Mr. Jones, Miss Green, Green Green, Green Green, Green

A. She was not sitting down eating.

Q. I say when you got back with Miss Blake, was she there?

A. I don't remember whether she was or not.

Q. I have here, Mr. Demmacher, the testimony that you gave before the coroner of the city and county of San Francisco -- I haven't the date, here, gentlemen--I withdraw that statement.

THE WITNESS: Thirteenth.

Q. What date was it? A. Thirteenth.

Q. Thirteenth of September.

Q. You remember now, do you, that you testified before the coroner of the city and county of San Francisco on September 13th, 1921?

A. I will never forget it.

Q. I am reading from page 144 of your testimony -- middle of the page: "Q. When you entered the room, whom did you find there? "A. Mr. Arbuckle, Mr. Sherman, Mr. Fishback, Mr. Fortlouis, Miss "Blake, Miss Rappe, Mrs. Delmont and Miss Key--I don't know her "last name. Q. Yes. A. And one or two other ladies. They "were all having drinks."

Did you so testify?

A. I didn't state they were all having drinks.

Q. You didn't state that they were all having drinks?

A. No, sir, I said we were all eating.

Q. You say you did not state they were all having drinks?

A. No, sir, not to my knowledge.

Q. Your opinion is that this is an error upon the part of the shorthand reporter?

A. Yes, sir, because I was with them all -- they were eating

Did you or Jonah?

"Both times." "No." "And you're the other Indian." Dyer
[illegible] "Yes." [illegible] "Jonah." [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]

breakfast when I walked in.

Q. You are absolutely positive now, Mr. Semmacher, as it appears here from this record you did not say they were all having drinks?

A. Well, there is an error somewhere.

Q. Is it possible you are in error?

A. It is possible.

Q. Now I don't see Mrs. Taube's name in the list of people you mentioned.

A. I didn't know the lady's name until later. I stated in there, one or two other ladies were there.

Q. You say you didn't know Mrs. Taube's name until later?

A. No, sir.

Q. When did you first find out what Mrs. Taube's name was?

A. I don't know exactly--not at that time, I know.

Q. When did you find out what her name was?

A. From the photograph in one of the newspapers showing Mr. Arbuckle and Miss Taube ranging out of the window of the St. Francis Hotel.

Q. When did you see this photograph? A. I don't know what day.

Q. How long ago was it that you saw the photograph?

A. Must have been a week or ten days ago.

Q. A week?

A. Could have been. I don't know what day the paper was published.

Q. Did you see the photograph last week?

A. Yes, some time last week.

Q. Please search your recollection, Mr. Semmacher and tell us when it was.

A. It was in one of the newspapers here.

Q. Please charge your recollection and tell us when it was that you saw the photograph of Mr. Arbuckle and Mrs. Taube leaning out of a window at the St. Francis Hotel?

A. It could have been either Sunday, Monday or Tuesday.

Q. Of what week?

A. The week that I was up here -- during the Grand Jury and the coroner's inquest.

MR GOLDER: Has your Honor a calendar there?

THE WITNESS: 18th, 19th or 20th of September-- 11th, 12th or 13th.

Q. Now you were here as I understand it September 11th, 12th and 13th, is that right?

A. And the night of September 10th.

Q. And the night of September 13th. Now with reference to those days, when was it? A. I couldn't tell you.

Q. That you saw the picture of Mrs. Taube and Mr. Arbuckle in the newspaper? A. Yes, sir.

Q. Was it between the 10th and the 13th?

A. Between the 10th and the 13th.

Q. Where were you--in what city were you when you saw that newspaper? A. San Francisco.

Q. And did you see the picture of Mrs. Taube and Mr. Arbuckle together leaning out of the window in the St. Francis Hotel, published in San Francisco? A. Yes, sir.

Q. Between the 10th and the 13th? A. Yes, sir.

Q. You remember don't you, Mr. Nemacher, that you testified before the Grand Jury-- A. Very well.

Q. At the time that you testified before the Grand Jury had you seen this photograph of Mr. Arbuckle--at the time that you testified before the Grand Jury had you seen the photograph of Mr. Arbuckle and Mrs. Taube in the newspaper?

A. That I don't know.

Q. What time of day was it? A. That I couldn't tell.

MR DOMINGUEZ: Wait a minute.

MR SOLOMON: Q. Now Mr. Semasher, what time of the day was it that you saw the photograph of Mr. Arbuckle and Miss Taube?

A. I couldn't tell you.

Q. What is the answer? A. I couldn't tell you the time.

Q. Where were you when you saw this photograph?

A. I don't know.

Q. Who showed you the photograph?

A. I saw it in a newspaper that I bought.

Q. Did you see this photograph in the newspaper in the morning?

A. I don't know.

Q. Did you see it in the afternoon? A. I couldn't tell you.

Q. Did you see it at night? A. I couldn't tell you.

Q. How soon after you testified--I withdraw that question.

When did you leave San Francisco after having testified before the coroner--how many days afterwards-- or did you leave the same day?

A. Tuesday, September 13th.

Q. What time Tuesday, September 13th did you leave San Francisco?

A. Eight o'clock.

Q. At night? A. At night.

Q. Go by train? A. The Lark.

Q. When did you finish giving your testimony before the surrogate?

A. Tuesday afternoon.

Q. What? A. Tuesday afternoon.

Q. Tuesday afternoon what time? A. Around four o'clock.

Q. Now with all of those facts and circumstances in your mind, Mr. Sommacher, can't you tell us when it was that you saw this photograph in the newspaper?

A. No, sir I can't; it could have been any of those three days.

Q. She told you, Mr. Sommacher, that there was a lady by the name of Mrs. Jaube in those apartments? A. The newspapers.

Q. How many times did you see Mrs. Jaube in those apartments on September 6th, 1921? A. I believe twice.

Q. Are you sure about it -- you say you believe twice?

A. Yes.

Q. When you left with Miss Blake to go to Tait's, did you leave Mrs. Jaube in the apartments? A. I don't know.

Q. What is it?

A. I don't know whether she was there or not when I left.

Q. Now you were in those rooms, Mr. Sommacher, for about a half an hour before you and Miss Blake left the apartments?

A. Could have been an hour.

Q. Can you tell us whether this lady whose picture you saw in the newspaper left the apartments before you left with Miss Blake?

A. I couldn't say, because I wasn't keeping track of anyone.

Q. I understand that you were not. And you are absolutely certain, although you were not keeping track, that when you came back with Miss Blake, Mrs. Jaube wasn't there?

MR DOMINGUEZ: Just a moment. I don't think the witness said that.

MR GOLDEN: I am asking him that. Are you absolutely certain that when you got back with Miss Blake, that Mrs. Taube was not there?

A. I can't say; I don't know whether she was or not.

Q. Now you got back with Miss Blake about what time?

A. Around three o'clock.

Q. And had they all finished eating when you got back?

A. Yes, sir.

Q. What were the parties doing?

A. Talking, laughing, playing the phonograph, drinking.

Q. Drinking what?

A. I don't know what each individual drank.

Q. Presumably a noxious liquid they found in bottles there?

A. Presumably what?

Q. Liquid that came out of bottles, wasn't it? A. Yes, sir.

Q. Did you notice the labels on the bottles?

A. Yes, sir, some of them.

Q. What were they? A. Gin and whiskey; white rock water; and then bottles without labels on, containing orangeade.

Q. Besides drinking and playing the phonograph and talking, were the parties doing anything else?

A. Nothing; walking around from room to room.

Q. Were going from room to room, you say?

A. Yes--using the telephone.

Q. Did you see Mr. Arbuckle going from room to room?

A. I couldn't state specifically that anyone was walking from room

Q. When you came back with Miss Blake after having taken her to the rehearsal at Pelt's, where was Mr. Arbuckle?

A. He was in room 1220.

Q. That is the room you first went into?

A. The reception room.

Q. Was he walking the floor or sitting down?

A. That I don't know.

Q. Where was Miss Virginia Rappe?

A. She was there somewheres; I don't know where.

Q. You can't tell us whether Mr. Arbuckle left Room 1220 at all at that time? A. No, I couldn't say.

Q. Can you tell us whether Miss Rappe left the room 1220 after you came back with Miss Blake? A. No, I don't know.

Q. Can you tell us whether any of them left the room 1220 after you came back with Miss Blake?

A. Some of them undoubtedly went from room to room.

Q. You remember who it was; tell us the names, please.

A. I could not remember who it was.

Q. Can't you give us the name of one person?

A. Well, I walked from room to room.

Q. What were you walking from room to room for?

A. I probably wanted to use a phone in one room, or went to another room.

Q. Haven't you any remembrance on the subject? A. No.

Q. Were you taking exercise? A No.

Q. Why were you walking from room to room, please?

A. I can't answer that question.

Q. Did Mr. Fishcock walk from room to room?

A. That I don't know.

Q. Did Mr. Portlouis walk from room to room? A. I don't know.

Q. Did Miss Blake walk from room to room? A. I don't know.

Q. Was there any dancing at the time? A. Very little.

Q. Well who was dancing with anybody?

A. I believe Miss Blake and Miss Provost dancer together.

Q. Anyone else?

A. And I believe Mr. Arbuckle danced with one of the ladies, and Mr. Sherman.

Q. Now you say distinct positive recollection that Mr. Arbuckle danced with one of the ladies after you came back with Miss Blake?

A. In a vague way.

Q. But you are not certain of it? A. No.

Q. What? A. No, sir.

Q. Now after you got back with Miss Blake from Pitt's,-How long did you stay there?

A. I don't quite remember, but I should think about a half an hour. It could have been longer.

Q. And then did you leave? A. Yes, sir.

Q. Without prying into your business, just tell us where you went, please? A. Went to see some friends of mine.

Q. On what street? A. Bush Street.

Q. Now as I understand it, you had come back with Miss Blake to the apartments about three o'clock?

A. Yes, Sir, around that.

Q. And you stayed there about half an hour more?

[illegible]

[illegible]

[illegible] from room to room? A. I don't know.

[illegible] from room to room? A. I don't know.

[illegible] time? A. Very little.

[illegible]

[illegible] Miss Prevost dancer together.

[illegible]

[illegible] Arbuckle dances with one of the Indian, and

[illegible]

[illegible]

[illegible]

A. In a vague way.

[illegible] certain of it? A. No.

[illegible] A. No, sir.

[illegible]

[illegible] I should think about a half an hour

[illegible]

[illegible] then did you leave? A. Yes, sir.

[illegible]

[illegible] A. Went to see some friends of mine.

[illegible] A. [illegible]

[illegible] it, you had some back with Miss [illegible] to

[illegible]

[illegible]

[illegible]

A. I don't think it was over half an hour.

Q. And approximately at 2:30 in the afternoon you left the apartments; is that right? A. Yes, sir.

Q. And you went to see some friends on Bush street?

A. Yes, sir.

Q. Now during that approximate half hour interval can you tell us whether there were any other persons came into the apartment?

A. No, I couldn't.

Q. During that approximate half hour interval, during the time you got back from the rehearsal and the time you left to go to Bush Street, can you tell us whether any persons left the apartment?

A. No, I couldn't remember that.

Q. When I say "came into the apartment" and "left the apartment" I do not mean going from room to room. You understand that, Mr. Semnacher?

A. Yes, sir, I understand that. Will you repeat that question again?

(Question read by shorthand reporter as follows: "During that approximate half hour interval, during the time you got back from the rehearsal and the time you left to go to Bush Street can you tell us whether any persons left the apartment?")

A. Yes, there was Mr. Fishback left the apartment.

Q. Anyone go with him? A. Not that I know of.

Q. What time did you get back to the apartment after you went to Bush Street?

A. Taking my time--I had got my car and parked--stopped at Bush Street and back--not over twenty minutes or half an hour.

Q. Where did you park your car?

[illegible] it was over half an hour.

[illegible]

[illegible] Yes, sir.

[illegible] you went to see some friends on Bush street?

[illegible] Yes, sir.

[illegible] approximate half hour interval can you tell us [illegible] the apartment?

[illegible]

[illegible] the time you left to go to Bush [illegible] can you tell us whether any persons left the apartment?

[illegible]

[illegible] and "left the apartment" [illegible] mean going from room to room. You understand that, Mr. [illegible]

[illegible] Yes, sir, I understand that. [illegible]

[illegible] "During that [illegible] the time you left to go to Bush street can you [illegible]"

[illegible] there was Mr. Fishback left the apartment.

[illegible]

[illegible]

[illegible] over two to minutes or half an hour.

[illegible]

A. Opposite the Palace Hotel,--on the street facing the Palace Hotel.

Q. You mean the St. Francis? A. The St. Francis.

Q. How long did the car remain parked there?

A. I parked it off and on three or four times during the day-- five times.

Q. I mean at the time that you came back from Bush street and you parked it, that would be somewhere around four o'clock in the afternoon, wouldn't it?

A. Yes, sir, somewhere around that time.

Q. After you had parked your car--

THE COURT: I think the witness wants to make a statement.

MR. [illegible]: Did you want to add something, Mr. Lemmasher?

THE COURT: I thought I heard an exclamation.

MR. [illegible]: Q. After you parked your car on the street on which the St. Francis Hotel fronts, at approximately four o'clock September 8th, how long did that car remain parked at that place?

A. About two hours.

Q. And then where did you take the car?

A. Down to the Palace Hotel.

Q. Yes -- took it to the Palace. And how long did it remain at the Palace? A. About fifteen minutes.

Q. And then where did you take it?

A. Back to in front of the St. Francis.

Q. And how long did it remain at the St. Francis or near there at that time? A. Until about eleven that night -- ten o'clock that night.

Q. And then what did you do with it?

A. Drove around the city until about one o'clock.

Q. You drove around the city until about one o'clock?

A. Yes, sir.

Q. And after driving around the city, what did you do with it?

A. When I returned to the St. Francis about one o'clock I parked the car in the Tunnel garage.

Q. You say you traveled around San Francisco until one o'clock in the morning? A. Yes, sir.

Q. Anyone drive with you? A. Two ladies.

MR [illegible]: We don't care for their names. Q. Any of the ladies whose names have been mentioned here today?

A. Yes, sir.

Q. Which two? A. Miss Clark and Miss Campbell.

Q. Now you say that you got the car at two o'clock and you and these two ladies drove around San Francisco? A. Yes, sir.

Q. Did you leave the car at the Tunnel Garage--withdrew that.

When you garaged your car at the Tunnel Garage, did you drive the two ladies into the garage with you

A. No, sir.

Q. Where did you leave the two ladies? A. At their homes.

Q. After you left the ladies at their homes, where did you take the car? A. To the Tunnel Garage.

Q. To the garage? A. Yes, sir.

Q. Then you didn't take it--I see-- then as I understand it, you took the two girls home and you drove immediately to the garage; is that right? A. That is right.

Q. And left the car there in the garage?

A. Yes, sir.

Q. And then you walked from the garage to the St. Francis Hotel?

A. To the St. Francis Hotel.

Q. And how far is that across from the St. Francis Hotel?

A. Three or four--maybe four or five blocks.

Q. What is Miss Clark's full name, please?

A. They call her Bonny Clark, or Gene.

Q. And Miss Campbell's name--what is her name?

A. I think it is Bess.

Q. Were the two ladies living together at the same place?

A. That I don't know.

Q. Where did you leave them?

A. I think I left them both at the same address -- Eleazer Hotel.

Q. These two ladies, Miss Clark and Miss Campbell, were any of them in the Arbuckle rooms at the St. Francis Hotel?

A. Yes, sir, that is where I met them.

Q. Now what was it that you met these two ladies at the St. Francis Hotel in the Arbuckle rooms?

A. I should judge around three o'clock.

Q. That was after you came back with Miss Blake?

A. After I returned with Miss Blake.

Q. When you left to go to Bush street did you take the two ladies with you? A. No, sir.

Q. You left them behind?

A. Yes, sir. I hadn't met them yet.

Q. You hadn't met them yet--at what point was it you met them at those rooms?

A. I made a mistake the a. I met them at 3:30 the second time that I entered the St. Francis.

[illegible]

[illegible] from the St. Francis Hotel?

[illegible] or five [illegible].

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] left them both at the same address -- Alcazar Hotel.

[illegible] ladies, Miss Clark and Miss Campbell, were any of [illegible] at the St. Francis Hotel?

Yes, sir, that is where I met them.

How what was it that you met these two ladies at the St. Francis [illegible] in the [illegible] rooms?

I should guess around three o'clock.

What was after you came back with Miss Clark?

[illegible]

When you left to go to such street did you take the two ladies [illegible] you? A. No, sir.

[illegible]

[illegible] I hadn't met them yet.

[illegible] met them yet--at what point was it you met them at [illegible]

[illegible] the o. I met them at 5:30 the second time that [illegible]

Q. As I understand, you came back with Miss Blake from Tait's around three o'clock?

A. Around that time. That is when I met them.

Q. And when you came back with Miss Blake from Tait's, were these two ladies there, or did they come in afterwards?

A. That is my recollection. They were there, and that is when I met them.

Q. Now when you left to go to Bush street, were these two ladies there? A. Yes, that is my recollection.

Q. Now when you came back to the hotel at four o'clock, after having gone to Bush street, were the two ladies there, Miss Clark and Miss Campbell?

A. I believe yes, because they were there I knew until ten o'clock that night.

Q. What is it? A. They were there until ten o'clock that night. They might have left the room at different intervals, but I don't know.

Q. Now let us see, Mr. Semmacher, so we will have no misunderstandings about it -- you say that you met these two young ladies--they are young ladies, I presume--am I right?

A. Yes, sir, about between twenty and twenty-five.

Q. You say that these two girls, or these two young ladies came into the Arbuckle rooms after you came with Miss Blake from Tait's?

A. Yes, sir, that is my recollection.

Q. Or were they there when you got there; which is it?

A. I can not say positively.

Q. And then you were introduced to them; is that right?

A. Yes, sir.

Q. Who introduced you?

A. I don't know. Someone there, I think it was Miss Portiel.

Q. And then you left to go to Bush street? A. Yes, sir.

Q. Did you go alone? A. Went with Mr. Portiolis.

Q. And you and Portiolis remained away--

A. About a half an hour.

Q. About a half an hour? A. Yes, sir.

Q. You left your car in front of the St. Francis? A. Yes, sir.

Q. About four o'clock in the afternoon? A. Yes, sir.

Q. And then did you and Portiolis, immediately after arriving your car, go upstairs again into the Arcadia room? A. Yes, sir.

Q. Now when you and Portiolis got upstairs what room did you and he enter? A. 1220.

Q. That is the reception room? A. Yes, sir.

Q. The room that you first went into when you first got there?

A. Yes, sir.

Q. Were Miss Campbell and Miss Clark in those rooms--in any of them, when you and Portiolis got back about four o'clock in the afternoon? A. That is my recollection, yes, sir.

Q. Did you talk to either of them?

A. I might have.

Q. Have you any recollection of so doing?

A. I spoke to everyone in those rooms.

Q. When you got back at about four o'clock did you notice whether the rooms--the 1221 was open or shut?

A. No, sir, I did not.

Q. Did you notice whether anybody was walking from room 1220 into 1221? A. No, I didn't pay any attention.

Q. Did you notice or hear any sounds or noises? A. No, sir.

Q. In the room when you came into 1221, about four o'clock?

A. No, sir, I did not.

Q. You and Fortlouis came into that room about 4 o'clock; did you notice whether the door leading into 1219 was open or shut?

A. No, sir.

Q. Was it open or was it shut?

A. That I can not say at that time,--that is when the phonograph was there and everyone was enjoying themselves.

Q. When you came in, you and Mr. Fortlouis, about 4 o'clock you say, the phonograph was playing? A. Yes, sir.

Q. And everybody was enjoying himself? A. Yes, sir.

Q. The defendant along with the rest of them enjoying himself?

A. Yes, sir.

Q. And was there drinking when you came back, you and Fortlouis, at about 4 o'clock in the afternoon?

A. I don't know what each one took, the liquids were there.

Q. Whatever they took, was liquid there?

A. There were liquids there.

Q. And was it being partaken of? A. Yes, sir.

Q. Please tell us--give us the names of every person, man and woman, who was in the room 1220 when you and Fortlouis got back at four o'clock in the afternoon?

A. Mr. Arbuckle, Mr. Sherman, Mr. Fishbank, Fortlouis, myself,

Miss Blake, Miss Prevost -- I am not certain about Miss Harpe or Mrs. Belmont.

Q. Let us see. Just read those names off to me, Mr. Reporter, please-- and listen to it, Mr. Somnacher.

(Last answer read by the reporter.)

THE COURT: Q How about Miss Clark?

A. That is what I was coming to. I believe Miss Clark and Miss Campbell were there.

Q. And you say that those are the people--you say you are not certain if Miss Belmont and Miss Harpe-- that you believe that Miss Clark and Miss Campbell were present, and that you know that Mr. Krouskie, Mr. Sherman, Mr. Fishback, Mr. Portlouis, Miss Blake and Miss Prevost were present when you and Portlouis came back at about 4 o'clock? A. Yes, sir.

Q. And you say they were all-whoever was in the room- having a good time and dancing and enjoying themselves generally?

A. Yes, sir.

Q. And you didn't notice anybody going from any one room to another at the time that you and Portlouis got back?

A. No, I didn't pay any attention to that.

Q. Now after you got back, you and Portlouis at four o'clock, after that did you notice anybody go from one room into the other?

A. No, sir, I didn't pay any attention to it.

Q. What is it?

A. I didn't pay any attention to anybody's actions.

Q. When did you leave the apartments, if you did leave the apartments? A. I left there again in a half an hour -- possibly less.

Q. After you and Portlouis got back you left the apartments again?

A. Yes, sir, I went down to buy some cigarettes.

Q. You say you were in there about a half an hour or so, after you and Portlouis got back?

A. It wasn't that long.

Q. Might have been ten or fifteen minutes?

A. Might have been ten or fifteen minutes, because I was out of cigarettes.

Q. You say you went down to buy some cigarettes?

A. Yes, sir.

Q. Where did you go?

A. To the United Cigar store on the same street the St. Francis is on, about two or three blocks down.

Q. And you went two or three blocks down, away from the St. Francis Hotel to buy some cigarettes? A. Yes, sir.

Q. Was there any special brand of cigarettes you wanted?

A. Yes, sir.

Q. What brand was it you wanted? A. Some fun. You can only get them in certain places.

Q. Anybody go with you?

A. No, sir, I went alone; I believe Mr. Portlouis preceded me--yes, I think he did.

Q. What is it? A. I believe Mr. Portlouis preceded me.

Q. He left before you did? A. Yes, I think he did.

Q. Did he go with you to the cigar store?

A. No, I went alone.

Q. You went alone. How long were you gone when you went to buy

the cigarettes? A. About twenty minutes.

Q. About twenty minutes?

A. Fifteen or twenty minutes because I met a gentleman I know in Los Angeles in the lobby there.

Q. What is that?

A. I met a gentleman I know in Los Angeles in the lobby.

Q. In the lobby of what place? A. Of the St. Francis--or outside, rather.

Q. What is it?

A. I met one of my friends outside.

Q. And you walked down three or four blocks, and you walked back three or four blocks, and you talked to a gentleman you knew, before you went back again?

A. Before I went upstairs again.

Q. Now then, about what time was it when you got back to the St. Francis rooms? A. Between four and five.

Q. Well, you left at four o'clock-- A. Yes.

Q. You got back at about four o'clock--you were there approximately half an hour?

A. It could have been ten or fifteen minutes. I can not be specific about the time.

Q. As I understand your testimony, you got back to the St. Francis Hotel approximately four o'clock -- you were in there approximately half an hour?

MR. O'BRIEN: That wasn't his testimony. He said ten or fifteen minutes.

MR. [illegible]: I mean he got back to the St. Francis--

"Just me...I pin something." He said for a lifetime

MR [illegible]: His testimony was to the effect he stayed there ten or fifteen minutes and then went out for cigarettes.

MR GOLDEN: Q. How long did you stay?

A. Around twenty minutes or half an hour.

Q. You stayed a half an hour or so when you got back with Portelus?

A. No, when I went out to get the cigarettes.

Q. You stayed away approximately a half an hour?

A. Yes, sir, it could have been twenty minutes. It could have been a half an hour.

Q. Then it was approximately a little before five before you got back to the apartment? A. It was before five, yes.

Q. A little before five?

A. I don't know how long before five; it was before five o'clock.

Q. Was it nearer four o'clock or nearer five o'clock?

A. Nearer five o'clock.

Q. Between half past four and five?

A. It could have been either way -- half past -- nearer half past four, or nearer five -- five o'clock -- I can not say about the time.

Q. Do you mean between four and four thirty, or four thirty and five?

A. I can not be specific about the time.

Q. When you got back, after having purchased the cigarettes, did you go upstairs to the room again? A. Yes, sir.

Q. What room did you go to? A. 1220.

Q. Who did you see there when you got back after having purchased the cigarettes -- give me the names of all the persons.

A. Miss Blake, Miss Provost -- I believe Miss Campbell, Miss Clark, Mr. Sherman, Mr. Arcuckle, Mr. Fishback and myself.

[illegible]

[illegible] -1 was before five, yes.

[illegible] before five?

[illegible]

[illegible] Nearer five o'clock.

[illegible] Between half past four and five?

[illegible]

[illegible] Yes, sir.

[illegible]

[illegible] I believe Miss Campbell, Miss [illegible]

Q. Anyone else? A. Not that I remember.

Q. When you got back? A. Mrs. Belmont, I think. I think Mrs. Belmont.

Q. You think Mrs. Belmont was in the room? A. Yes.

Q. In 1222? A. In 1221.

Q. Is that right, when you got back?

A. I believe she was.

Q. I mean when you came back after having having purchased the cigarettes? A. Yes, sir, between four and five o'clock.

Q. Now as I understand, Miss Blake, Miss Prevost, you believe Miss Campbell and Miss Clark were there; Sherman was there; Arbuckle was there; Mr. Fishback was there--and you believe that Mrs. Belmont was there when you got back after having purchased the cigarettes?

A. Yes, sir.

Q. Were the parties still enjoying themselves as before?

A. Yes, sir.

Q. What? A. I believe they were.

Q. Well do you know whether they were or not?

A. I cannot tell positively what they were doing.

Q. Saw the victrola going? A. Yes, sir.

Q. And they were dancing?

A. I don't know whether they were dancing just then.

Q. Well, they were at any rate giving every indication of enjoying themselves? A. Of enjoying themselves.

Q. Did you notice anybody going from room 1220 to 1221 when you got back after having bought those cigarettes?

A. 1221?

[illegible] A. [illegible]

[illegible] A. [illegible]

[illegible]

[illegible] was in the room? A. Yes.

[illegible] A. In 1220.

[illegible] back?

A. I believe [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] A. I believe they were.

[illegible] whether they were or not?

[illegible]

[illegible] A. Yes, sir.

[illegible] were [illegible]?

[illegible] whether they were [illegible] just then.

[illegible] they were at any rate giving every indication of enjoying [illegible] A. Of enjoying themselves.

[illegible] anybody going from room 1220 to 1221 when you got [illegible] after [illegible] thought those cigarettes?

A. [illegible]

Q. Yes. A. No--not 1221.

Q. Did you notice whether the door was open or closed?

A. No, I did not.

Q. Leading into 1221? A. No.

Q. Did you notice whether anybody -- when you got back as you entered the room 1220 after you bought those cigarettes, did you notice whether anybody was going into room 1219?

A. 1219?

Q. Yes. A. Not at that time.

Q. I say when you got back after having bought those cigarettes--

A. You asked me about 1221.

Q. I am going to come to 1219. When you got back after having bought those cigarettes, did you notice anybody, as you entered the room 1220, going into 1219? A. Not at that time.

Q. All that you noticed was that the Victrola was going, and that the parties were continuing to enjoy themselves in the same happy fashion as they were before; is that right? A. Yes, sir.

Q. And that was what the condition was when you returned after having got the cigarettes? A. Yes, sir.

Q. How long after you came back to 1220 -- that is to say, after you had bought the cigarettes was it before you noticed or observed anybody leave 1220? A. Very few minutes.

Q. How many minutes?

A. It could have been two, three, five or ten -- couldn't have been over ten minutes.

Q. At any rate the interval of time that elapsed--

A. (Interrupting) -- was very short.

[illegible] No--not 1121.

[illegible] whether the door was open or closed?

[illegible]

[illegible] A. [illegible]

[illegible]

[illegible]

[illegible]

A. [illegible]

[illegible] A. Not at that time.

[illegible]

[illegible] me about 1221.

[illegible]

[illegible]

the room 1220, going into 1219? A. Not at that time.

[illegible]

[illegible]

[illegible] as they were before; is that right? A. Yes, sir.

[illegible]

[illegible] the cigarettes? A. Yes, sir.

[illegible]

[illegible] the cigarettes was it before you noticed or observed [illegible] A. Very few minutes.

[illegible]

[illegible] have been two, three, five or ten -- couldn't [illegible] over ten minutes.

[illegible]

[illegible]

Q. Wait a minute. At any rate the interval of time that elapsed after you got back to room 1220 following the purchase of cigarettes was sufficiently long to make it -- possibly it was ten minutes?

A. It could have been very much less. It couldn't have been over ten minutes.

Q. It could have been ten minutes, could it?

A. Yes, sir.

Q. And during that interval between the time that you got back after having got the cigarettes, and the first time that you noticed anybody leaving room 1220, everything went along in the same happy fashion as it did before; is that right? A. Yes, sir.

Q. Now then, tell us who it was, if anyone, that you first saw leave room 1220.

A. I don't know who they were -- two ladies.

Q. Two ladies. Don't you tell us the names?

A. No, I would not know who they were.

Q. Did you know who they were? A. No.

Q. Had you met them?

A. Certainly; I met everyone there.

Q. Had you seen them in those rooms before? A. Certainly.

Q. And you don't now tell us who either one of those two ladies were? A. No; because I paid no attention to them.

Q. Did they leave the room quietly?

A. That I don't know.

Q. Did you see them go? A Certainly.

Q. Where did you see them go? A. Into room 1215.

Q. All right. Did you see them enter the room?

A. I didn't see them open the door. Naturally they opened the door when they went in.

Q. Was the door between 1221 and 1219 open or shut?

A. Shut.

Q. Just a moment now. Was the door between 1220 and 1219 open or shut when you came into 1220 after you bought the cigarettes?

A. That I don't know.

Q. What? A. Presumably shut.

MR [illegible]: I move to strike out the answer "presumably shut" as not being responsive. If you don't know, say so. Don't guess at it.

(Last question read by the reporter)

A. I believe it was shut.

MR [illegible]: I move to strike out the answer as not responsive.

MR [illegible]: I beg your pardon. I think that is a fair answer to the question.

MR [illegible]: No, it is not an answer. A belief is not an answer. He either knows or he does not know.

THE COURT: The witness can state he doesn't know, if he is not sure of the facts. Q. Can you answer the question definitely as to whether or not that door was open or shut? You may have time for recollection, if you wish.

A. I don't want any time. My recollection is that the door was shut.

Q. That is your best recollection? A. Yes, sir.

THE COURT: That is an answer.

MR [illegible]: Q. Between the time that you got back into Room 1220 after you bought the cigarettes and time that you saw the two ladies

go into 1219 was that door opened, leading into 1219?

A. No, sir.

Q. Then as far as you know--then your statement is that the door leading into 1219 was closed? A. Yes, sir.

Q. From the time that you got back after buying the cigarettes until the two ladies walked into 1219 -- is that right?

A. Yes, sir.

Q. Now when they walked in, these two ladies whose names you do not now remember--withdraw that.

You don't know, as I understand, which one of the numerous ladies it was who went into the room?

A. No, I couldn't tell which ones they were.

THE COURT: "Numerous"?

MR [illegible]: Well, there were four or five. It is a relative matter. Q. How long did those two ladies remain in 1219 before anything happened? A. A few minutes.

Q. How many minutes? A. Five or ten minutes.

THE COURT: Q By the way, did they close the door after them, when they went into that room?

A. Yes; they closed the door.

MR [illegible]: Q You say the two ladies closed the door when they went into room 1219? A. Yes, sir.

Q. How do you know they did?

A That is my recollection of it.

Q. Now listen, Mr. Sommesher-- did they or did they not close the door leading--

A. (Interrupting) They did.

Y. Is there room?

Y. Yes, sir.

Y. Yes, sir.

Y. Yes, sir.

Y. Yes, sir.

Y. Yes, sir.

Y. Yes, sir.

Q. And you know it because you saw them close it?

A. Yes, sir.

Q. And you were watching them very intently all the time, weren't you? A. No, not at all.

Q. You saw them get up--I withdraw that.

Where did they start from? A. That I don't know.

Q. Where were they in room 1220 when they started for 1219?

A. I don't know.

Q. You did, however, see them start for 1219? A. Yes.

Q. You did see them go up to 1219--right?

A. Yes.

Q. Go up to 1219 -- go into -- I am taking it gradually. You did see them go into 1219? A. Yes, sir.

Q. And you did see them open the door -- correct? A. Correct.

Q. And you did see them close the door?

A. I did not see them close the door, because they were in the room -- the other room.

Q. You saw the door closed? A. Yes, sir.

Q. And you were watching them all the time?

A. I was not watching them at all.

Q. You were watching them as they were doing what I have just described? A. Just in a casual way.

Q. And you remember very distinctly that the door was closed when you got there? A. When I got what?

Q. That the door was closed when you got there--you discovered all this in the same casual fashion, did you? A. Yes.

Q. That the door was closed when you got there -- that it remained

closed for ten minutes or so -- that these two ladies opened it-- and they went in and the door was closed. You remember all that distinctly? A. Yes, sir.

Q. And you couldn't tell us who the ladies were?

A. I didn't pay any attention to the ladies.

Q. (Continuing) --as they did over the door -- you were of course observing them, weren't you? A. No, not particularly.

Q. Was the door shut quickly, or was it shut slowly?

A. That I don't know.

Q. Was it slammed, or was it closed gently?

A. That I don't know.

Q. As the door was closed did you hear any noises coming through the door from 1219? A. No, sir.

Q. Everything so far as you could see or hear in 1219 was quiet?

A. Yes, sir.

Q. And you say they remained in there for about ten minutes?

A. Could have been between two and ten minutes -- a few minutes.

Q. At any rate it was an appreciable length of time that they remained in 1219? A. They remained in there a little time.

Q. I say it was an appreciable length of time they remained in room 1219? A. Between two and ten minutes.

Q. When they went into the room, these two young ladies, into 1219, you remained in 1220 -- right? A. 1220.

Q. And where was the defendant, Mr. Arbuckle, when the two ladies went into 1219? A. In 1220.

Q. What was he doing?

A. My recollection is, he was having a drink.

[illegible]

[illegible] A. Yes, sir.

[illegible] you couldn't tell us who the ladies were?

[illegible]

[illegible] — [illegible] — [illegible]

[illegible] you? A. No, not particularly.

[illegible], or was it shut slowly?

[illegible]

[illegible] slammed, or was it closed gently?

[illegible] I don't know.

[illegible] the door from 1219? A. No, sir.

[illegible]

[illegible] Yes, sir.

[illegible] And you say they remained in there for about ten minutes?

[illegible]

[illegible] in 1219? A. They remained in there a little time.

[illegible] A. Between two and ten minutes.

[illegible] went into the room, these two young ladies, into 1219, [illegible]

[illegible]

[illegible] is, he was having a drink.

Q. And where was Mr. Sherman? A. He was there, too.

Q. And where was Miss Campbell and Miss Clark?

A. They were all there.

Q. And Mrs. Belmont?

A. I don't know; as I stated before, I am not positive whether she was there or not.

Q. And was it-While the two ladies were in room 1219, the victrola continued to move and make music?

A. Yes, sir, I made it move, myself.

Q. And there was dancing?

A. A little bit-- no noisy dancing.

Q. Well, there was some dancing whether it was noisy or quiet?

A. Yes.

Q. And everything continued in the same happy fashion as it did before, during the time that the two ladies were in 1219? Is that right?

MR DOMINGUEZ: Just a moment. That has been asked and answered two or three times, your Honor, the same question and the same answer.

MR [illegible]: But that particular question. Every question has a purpose, Mr. Dominguez.

THE COURT: I am assuming the purpose will be revealed. I can not connect it up yet. I imagine there must be some object in this length examination. Go ahead.

MR [illegible]: Q. Now then, while the two ladies were in 1219 for this two or ten minutes, did you see anybody leave room 1219 and go anywhere? A. No, sir.

Q. Everybody remained in 1220? --Right?

A. Yes, sir.

Q. Now then, did the two ladies come out of 1219? A. Sir?

Q. Did the two ladies come out of 1219?

A. Yes, I stated before, they came out.

Q. And when they came out of 1219, did they close the door or not, then, or leave it open? A. No, they left it open.

Q. As they came out of 1219 and left the door open did you hear any noises or any sounds in 1219? A. No, I did not.

Q. Everything was quiet in 1219 when they issued from it?

A. Yes, sir, until a few seconds later -- the girls came out very rapidly.

Q. The girls ran out very rapidly?

A. They did not run. They walked very rapidly.

Q. You say they came out very rapidly? A. Yes, sir.

Q. You noticed that, did you? A. Yes, sir.

Q. That there was some excitement in their coming out-- is that right? A. That is right.

Q. And can you tell us now who they were?

A. I don't know who they were.

Q. And what was said by the two girls?

MR DOMINGUEZ: That is hearsay.

MR GOLDEN: Mr. Arbuckle was in the room.

MR DOMINGUEZ: Lay the foundation.

MR GOLDEN: The witness has already testified that Mr. Arbuckle remained in the room. It is an inference whether he heard it or not. The witness can't answer that question -- Mr. Arbuckle was

in the room.

THE COURT: What difference does it make what these girls said -- How is that evidence?

MR GOLDEN: Part of the transaction, because it has reference to what was transpiring in Room 1219.

THE COURT: It doesn't bind the defendant.

MR O'NEIL: A statement made in the presence of the defendant is binding.

MR GOLDEN: A statement made in the presence of the defendant is always binding.

THE COURT: Is it contended this is a statement against interest?

MR GOLDEN: Always against interest.

MR COHEN: It is incompetent, irrelevant and immaterial. The statement of a third person is not binding upon the defendant--any person could rush in there and say something.

THE COURT: The objection is sustained.

MR GOLDEN: Q. You say that a few seconds later you heard some noises.

A. No, I didn't state that.

Q. Did you hear any noises? A. After I entered the room.

MR GOLDEN: Of course, your Honor, when we produce authorities to show this testimony is absolutely material --

MR COHEN: I presume all you want to know is what this witness heard and saw himself?

MR O'NEIL: When we produce the authorities to show the statements made by those girls in the presence of the defendant is admissible, I presume is that case your Honor will consider the point again?

MR SOHEN: I have the authorities here.

MR O'BRIEN: I know the authorities.

THE COURT: Possibly if it was a statement involving the defendant which he did not deny--having the opportunity to deny at the time -- it might be admissible on that ground. I have no intimation that the statement is of such a character.

MR GOLDEN: It is a part of the res gestae. It is a statement made in the presence of the defendant. Q. After these two girls came out you went into room 1219, did you?

A. With everyone else.

Q. Mr Arbuckle went in, too? A. Yes, sir.

Q. Now what was it that these girls said that caused you all to go into 1219?

MR O'BRIEN: There is no evidence here that what was said caused them to go into 1219, and I insist if there is going to be a statement made of these girls, and the court allows it, -- we want the foundation laid. I want Arbuckle in the near vicinity.

MR GOLDEN: Arbuckle was in the near vicinity.

THE COURT: Let the witness make the statement.

MR GOLDEN: That is in evidence, isn't it, if the court please?

THE COURT: I understand Mr. Arbuckle was in the room at the time?

A. Room 1220.

Q. Where all the parties were at the time these two girls returned from 1219; is that right? A. Yes, sir.

Q. And whatever statement was made at that time was made in Mr. Arbuckle's presence, and within his hearing?

A. Yes, sir.

MR [illegible]: It is clearly admissible, if the Court please.

THE COURT: I will allow the question, subject to a motion to strike out the answer if it does not pertain to anything affecting the defendant.

MR GORDON: Affecting the case.

MR [illegible]: No, affecting the defendant.

THE COURT: For instance, Mr. District Attorney, supposing these girls said something that hasn't any bearing upon this case at all?

MR GORDON: It would go out, then.

THE COURT: That is the ruling.

MR [illegible]: That was it the girls said when they came out of room 1219?

MR [illegible]: Will I answer that, your Honor? They said "Come here". Words to the effect--

MR DOMINGUEZ: Just a minute -- no words to the effect --

MR [illegible]: He has the right to say the words in substance or effect.

THE COURT: Q Do you remember the exact words?

A. Not the exact words. The substance was we should all come into room 1219, as this lady, Miss Hanna, was very ill.

MR [illegible]: As to that statement we desire to object as incompetent, irrelevant and immaterial and not binding upon this defendant; no connection shown.

THE COURT: Well, is there any harm in it?

MR [illegible]: We will show the connection of that testimony with the rest of the testimony.

MR COHEN: We want to go on record as making our objection to this question, your Honor. I don't desire to be captious, -- but if you desire me to make my objection when all the statements are in, and then produce my authorities covering my objection, all right-- very well.

MR [illegible]: Was anything else said by these girls?

A. No, sir.

MR COHEN: Just a minute.

MR [illegible]: I have a right not to be satisfied with the answer from this witness.

MR COHEN: He is your witness.

MR [illegible]: He is a witness who is here -- one of the participants in this affair.

MR DOMINICK: Well, if that is the case, if your Honor please, and these gentlemen here are sticking to the rules of evidence, I am going to have this to say: I want them to declare this witness a hostile witness. All this has been cross examination. All the questions he is asking here are impeaching questions. He has even suggested to this witness that he gave a contrary statement before the grand jury. If this is a cross examination, why they might declare that, so this cross examination may go on.

THE COURT: In other words be considered cross examination and not direct examination?

MR DOMINICK: That is correct. He has practically said this witness was a hostile witness, and under the rules of evidence he must so declare him.

THE COURT: It is quite evident, from the nature of the examina-

tion that the District Attorney regards this witness as a hostile witness.

MR DOMINGUEZ: That is not the point.

THE COURT: There is a very fair inference to that effect from the way the examination has been pursued.

MR DOMINGUEZ: And under the rules of evidence he must declare this man a hostile witness before he can pursue this line of cross examination; I think that is elementary, brother O'Hop.

MR O'HOP: Some things we agree upon -- some of the elementary things.

THE COURT: The examination has taken the form of a cross examination without any objection from you, and it might as well continue in that way.

MR DOMINGUEZ: In view of his statement I would ask he declare this witness a hostile witness, and I believe that the rules of evidence bear me out.

THE COURT: Do you wish to assume that attitude?

MR GOLDEN: My attitude is, we are here, if possible, to get the truth. None of us were present when this unfortunate tragedy took place. We are compelled to rely for the truth, if it possibly can be obtained, from the testimony and the evidence of those who participated in it to a greater or lesser extent. I say, it is the duty of the District Attorney to exhaust every possible resource to determine what caused the death of this unfortunate girl. That is the position that we take in this case. Yesterday Mr. Dominguez very properly said, we are here to ascertain the truth. That is our only purpose in this investigation.

THE COURT: The object to every judicial proceeding is to determine the question of the truth or falsity of the position of one side or the other. But in the determination of that ultimate fact, naturally we are governed by the time-honored rule of law and evidence -- which, objection being made, we are compelled to observe. I presume the court is just as anxious as counsel to arrive at a just determination. That is what I am sitting here for.

MR. [illegible]: It is sufficient for us to say at this time, that this witness was a member of this party, and connected with it to such an extent as may be determined in the case-- that he is a friend of those who were there. That he was a guest, and was the recipient of the hospitality; and that at any rate, he may be considered as a reluctant witness.

THE COURT: As I understand it, this discussion is simply occasioned by the [illegible] made by counsel for the defendant that the District Attorney declare himself as to whether or not this witness is a willing witness, or a hostile witness.

MR. [illegible]: Let this examination be regarded as a cross examination, if you desire. We have no objection to that. We are determined, within the rules of law, if possible, to extract the truth from whatever source we can get it. What is the last question and answer please, Mr. Reporter?

(Last question and answer read by the reporter)

THE COURT: The question was answered.

MR. [illegible]: As I understand, Mr. Gallagher, all that these two girls said when they came out quickly, was "You must all come in here; Miss Hope is very sick". Is that so?

A. That is all I can remember.

Q. And immediately everybody in room 1220 went into 1219, including Mr. Arbuckle--correct?

A. I know Mr. Arbuckle went in, but I don't know if everyone in 1220 came in.

Q. Well, a number of them? A. Yes, sir.

MR DOMINGUEZ: I am going to object to questions so grossly leading and suggestive to this witness.

THE COURT: If we are going to treat it as cross examination it can't be leading.

MR DOMINGUEZ: Now we understand each other.

MR GOLDEN: I thought we always did, counsel.

THE COURT: As long as we are playing the game we might as well play it according to the rules.

(Last two questions and answers read by the reporter)

MR [illegible]: Q. Did they go into 1219 in a leisurely fashion?

A. I shouldn't think so, under the circumstances.

Q. Well, they went in very quickly, didn't they?

A. I know I did.

Q. And the others did, as you did? A. I presume they did.

Q. You know they did?

A. I did not watch them. I watched myself.

Q. Did you lead the party into 1219?

A. I don't know whether I did or not.

Q. You all rushed in together indiscriminately; isn't that right?

A. Yes, sir.

Q When you got in 1219 what did you see?

A. Miss Hagge lying on the bed.

Q. Which bed? A. One of the two beds.

Q. Was it the bed nearest the wall, or the bed nearest the door?

A. Nearest the windows.

Q. As I understand, there were two beds in room 1219-- correct?

A. Correct.

THE COURT: I was going to suggest that you use the diagram.

MR [illegible]: I think it will be stipulated this is a correct diagram.

THE COURT: We will take a short recess.

MR [illegible]: (After recess) I was showing Mr. Dominguez this diagram made by Mr. Latulite, who is the official expert of the police department of San Francisco -- and I have no doubt it is correct. He is accustomed to making these diagrams, and they are always taken as correct.

MR DOMINGUEZ: Your statement is sufficient.

MR [illegible]: The scale is three quarters of an inch to a foot. Now this is a diagram showing rooms, 1219, 1220 and 1221 St. Francis Hotel--scale three quarters of an inch to one foot -- St. Francis Hotel, San Francisco, California.

THE COURT: What floor?

MR [illegible]: The twelfth floor. Q. I am pointing to a corridor on which rooms 1219, 1220, and 1221 are facing -- on the right hand side where I am now pointing is Powell street. At the bottom of the diagram that represents an "L" -- a light well or an "L" looking toward Post street.

A PERSON: Geary.

MR [illegible]: Teary street, represented at the bottom of the diagram.

THE COURT: Is that the corner of the building?

MR [illegible]: Yes, it is not the corner of the building. It is a light well, but the light well faces Powell Street.

MR O'[illegible]: That is the large wing towards Post Street.

THE COURT: I understand now.

MR [illegible]: And Post Street is in the direction parallel with the top of the diagram. The room on the left hand lower corner of the diagram is 1415. The room immediately adjoining is 1420; the room above it, facing Powell Street is 1421. Referring to the corridor there is an entrance leading off the corridor directly into room 1415, and likewise there is an entrance from the corridor leading into room 1420; and likewise there is a room off the corridor leading into room 1421. Room 1421 is at the end of the corridor. There are connecting doors between rooms 1415 and 1420. There is also a connecting door between 1420 and room 1421.

THE COURT: Will it be admitted by counsel for the defendant that this diagram correctly states the positions and arrangements of these rooms?

MR [illegible]: I have already stated, your Honor, if Judge Golden says it is a fact we will stipulate it is so.

MR GOLDEN: I am relying on Mr. Latulipe.

MR [illegible]: We will take your word for it if you guarantee it.

MR GOLDEN: I guarantee it. That is going some, too.

Q. Now when you came into room 1415 after the two girls came out and said "Miss [illegible] is sick, and go in" -- you rushed in with the rest -- is correct? A. Yes, sir.

Q. And you saw Miss Virginia Rappe lying in bed in 1219 -- right?

A. 1219.

Q. You will notice there are two beds designated in room 1219 -- which of the two beds was it on which Miss Virginia Rappe was lying when you first saw her?

A. The bed facing the light well.

Q. This bed I am pointing to now? A. That one there.

Q. The one I am pointing to now? A. Correct.

MR GOLDEN: I am going to identify it. The bed referred to by the witness is the one nearest to the door connecting 1219 with 1220 -- right? A. Right.

MR GOLDEN: You check me up so that I identify them as we go along. Q. Now when you got into the room 1219, after the two girls called you all in, tell us what you noticed.

A. Miss Rappe lying on that bed.

Q. What was she doing?

A. Moaning -- and moving from side to side.

Q. She was moaning, you say? A. Yes, sir.

Q. Was it a loud moan? A. Not very loud-- no.

Q. Was it a soft moan? A. Between loud and soft. I couldn't tell.

THE COURT: (Addressing spectators in court room) There is no occasion for merriment.

MR GOLDEN: Q Was it a moan of pain?

MR [illegible]: Just a moment. Oh, no. We will object to that as calling for the conclusion of the witness and incompetent, irrelevant and immaterial.

MR [illegible]: That is always proper to ask the opinion of the witness on a question of that kind. That can not be described in any other fashion.

MR [illegible]: There are exceptions to that, and further than that, there is no foundation laid.

THE COURT: That involves a matter of common experience, counsel; it does not require an expert to testify to a common thing of that kind, whether a moan is of pain or pleasure or some other indication of feeling. I will allow the question.

MR GOLDEN: Q Answer it, please.

A. I should judge it was one of pain.

Q. Well you know it was one of pain.

A. From her succeeding words, yes.

Q. Now you say that it was a moan between soft and loud?

A. Yes.

Q. Was it louder or softer? A. I can not tell that.

Q. Well, you heard it?

A. Yes, but I don't describe a thing like that. No human being can.

Q. I am not asking you to describe it any more than to tell us whether it was a moan that approached a shriek?

A. It certainly wasn't a shriek.

Q. And how many times did she moan? A. I did not count them.

Q. More than once? A. Certainly.

Q. And how was she lying on the bed -- on her side, on her back, or how? A. I don't know whether it was side or back. She was lying there, that is all I know.

Q. Was she lying quietly? A. No, moving from side to side.

Q. moving from side to side slowly or rapidly?

A. I don't know whether it was slowly or rapidly.

Q. Well you observed didn't you, Dr. Lemacher?

A. Yes. Some people would call a motion rapid and others would call it slow.

Q. Would you call it a tossing motion?

A. What do you mean by a tossing motion?

Q. I am asking you whether you would call it a motion from side to side? A. Explain what you mean?

Q. From side to side? A. Yes, sir.

Q. First she would turn to one side, and immediately turn to the other side; is that right?

A. She would turn from one side to the other.

Q. What was she doing with her hands?

A. She had them on her abdomen.

Q. Was she rubbing her abdomen? A. That I don't know.

Q. Were her hands lying quietly on her abdomen?

A. I don't know. I noticed her hands on her abdomen.

Q. Were her hands moving at all? A. Just on her abdomen.

Q. Were her hands moving on her abdomen?

A. I don't know whether they were moving or not.

Q. Did you notice the condition of her hair? A. No.

Q. Was her hair combed, or was it dishevoled?

A. I didn't notice.

Q. Didn't notice the hair? A. No, sir.

Q. Was her hair up or down? A. I do not know.

Q. Did not notice? A. Did not notice.

Q. You observed her? A. I saw her laying there.

Q. Now how long did she continue to moan?

A. As long as I remained in the room.

Q. How long did you remain in the room?

A. Oh, not over three or four minutes.

Q. Where did you go?

A. Went out into the other room, 1220.

Q. Who went with you? A. All the men.

Q. And who remained behind? A. The ladies.

Q. Which ladies? A. Mrs. Belmont, Miss Shaw, Miss Prevost -- I don't know who the other one was.

Q. Well, where did Mrs. Belmont come from?

A. And Mrs. Belmont.

THE COURT: You answered Mrs. Belmont already.

A. Did I?

MR GOLDEN: Q. Where did she come from?

A. I don't know where she came from.

Q. Did you see her go into 1219?

A. I did not see her go into -- I saw her in 1219.

Q. Did the men all go out together? A. I believe they did.

Q. Well, they did, didn't they?

A. We were all in 1220.

Q. The men were all in 1219 at first, weren't they, when you all went in there together? A. Yes, sir.

Q. And then the men in 1219 all went out into 1220; is that right?

A. Into 1220, yes, sir.

Q. When Miss Hayes was lying on that bed in 1219, was she dressed

Y. Yes, sir.

Y. I see no point in lying.

Y. I believe they did.

Y. I am not now a member of the [illegible].

Y. I am not a member of the [illegible].

Y. I am not a member of the [illegible].

Y. I am not

or undresses? A. Undressed.

Q. All undressed? A. Nude.

Q. Where was her clothing?

A. Scattered on the floor and lying on various articles of furniture.

Q. Clothing was scattered all over the floor and lying on various articles of furniture? A. Yes, sir.

Q. Can you tell us where any particular articles were? A. No, sir.

Q. Can you tell us where the shirt waist of Miss Payne was?

A. In the waste paper basket.

Q. Did you notice it in the waste paper basket at the time you went into 1215? A. No, sir.

Q. I am asking you now what you noticed with respect to Miss Payne's clothing when you went into 1215 at the time she was lying on the bed nude? A. That they were lying on the floor and on various articles of furniture.

Q. Were any of them in the waste basket?

A. I did not notice at that time.

Q. What was on the chairs?

A. I believe her hat and dress.

Q. What was on the floor? A. Stockings, garters, shoes.

Q. Where were the shoes? A. On the floor.

Q. What part of the floor?

A. What do you mean by what part of the floor?

Q. The corner, in the middle of the room, or under the bed?

A. I believe they were near the bed.

Q. Have you any recollection -- Have you a distinct recollection of that? A. No, sir.

Q. Have you a distinct recollection of the garments that you men-

tioned as having seen in the chair? A. Yes, I have.

Q. And what garments were they? A. The hat and the coat.

Q. What chair was it? A. I don't know which chair.

Q. Where was the chair? A. In room 1219.

Q. What part of the room? A. I don't know.

Q. What is it? A. I don't know what part of the room.

Q. Where was the other clothing--the underwear?

A. In the waste paper basket.

Q. Did you notice it when you went into 1219? A. No, sir.

Q I am speaking now of the time you went into 1219 when the lady was nude? A. Yes; I know that.

Q. Where was her underwear at that time?

A. It must have been in the waste paper basket.

Q. Did you see it there? A. Not at that time.

Q. Did you see it anywhere except in the waste paper basket?

A. No, sir.

Q. Now, when you were all in the room -- all of the men in 1219 what did Miss Rappe say, if anything?

MR [illegible]: Just a minute now; that is objected to unless the proper foundation is laid for the introduction of that testimony.

MR GOLDEN: I don't see if it requires any more foundation, if the court please.

MR [illegible]: I want to know where Mr. Arbuckle was at that time.

MR GOLDEN: He was in room 1219.

MR [illegible]: Let us see what he says now about it. You asked him many questions about it. This witness may be involved-- I don't know. If he will say Mr. Arbuckle was in 1219 I have no further

objection.

THE WITNESS: I don't remember if he was there.

MR [illegible]: The witness has testified that Mr. -- that they all went in together; that they remained together and they went out together.

THE COURT: You don't need to make that statement, Mr. District Attorney, because that is my recollection of the testimony.

THE WITNESS: May I have the question again?

MR [illegible]: May I have that question; I didn't get the question.

(Question referred to read by the reporter)

MR [illegible]: And the further objection the same is incompetent immaterial and irrelevant. And it is now apparently the statement of a past narrative, and in that connection the authorities are numerous. This statement was made after something was done, your Honor. And it is no part of the res gestae and it is only the narration of a past event. In that connection, if your Honor desires to hear authorities, we have some of them.

MR O'[illegible]: Do you admit -- do you mean her injury had occurred at that time?

MR [illegible]: You are endeavoring to call for a statement -- If something had occurred prior to that time, this statement is incompetent irrelevant and immaterial as a narration of something that occurred.

MR [illegible]: We are entitled to that in the light of the evidence -- and the court can determine when the injury occurred.

MR [illegible]: You never asked the question when the injury occurred. The question asked now is, what statement was said. I would like to

[illegible]

[illegible] I don't remember if he was there.

[illegible] witness has testified that Mr. -- that they all [illegible] together and they went out [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] and it is [illegible] part of the rea gestae and it is [illegible] the [illegible] [illegible] rites, we have a me of them.

[illegible]: Do you admit -- do you mean her injury has occurred [illegible]

[illegible] You are endeavoring to sell for a statement -- If [illegible] occurred prior to that time, this statement is [illegible] occurred.

[illegible] when the injury occurred.

[illegible] I asked the question when the injury occurred [illegible] is, what statement was said. I would like to

be heard upon that, your Honor.

THE COURT: Well, counsel, go ahead and let us have any authorities covering that situation.

MR COHEN: Very well, your Honor.

THE COURT: Is it your claim, before you proceed, that these-- any statements made by the deceased at that time is not a part of the res gestae?

MR COHEN: Absolutely -- a narration of a past event is not part of the res gestae, your Honor.

MR [illegible]: The principle of law is admitted. The question is what the res gestae is.

THE COURT: That is the idea. The res gestae can cover more or less interval of time, dependent upon the nature of the incident.

MR COHEN: That is true, your Honor -- what I want to direct the Court's attention to is this: Any statement concerning the narration of a past event made by the deceased, or anyone else-- that is the point we are making -- something contemporary with the transactions in question -- anything which is made at that time. -- Descriptive or narration is absolutely inadmissible, and the authorities so hold.

MR [illegible]: Counsel, that would be true, if you will stipulate that the injury had occurred prior to that time. Then it would be descriptive of a past event.

MR [illegible]: We don't admit that any injury ever occurred.

MR [illegible]: Then the question is clearly admissible; the question is clearly proper.

THE COURT: I take it this way: that the question can be allowed, of course, subject to some connection being shown afterwards. There

is nothing here connecting this statement with any connection on the part of the defendant as yet.

MR [illegible]: Yes. Now, if your Honor please, if it is shown that this is nothing more than a description or narration of a past event--

THE COURT: It will be stricken out, then.

MR O'[illegible]: With that understanding, it will be stricken out, if your Honor please, as part of the res gestae.

THE [illegible]: If the Court determines it is part of the res gestae it will stay in?

MR O'[illegible]: We will have the further offer, though, it is a declaration made against interest in the presence of the defendant. It is always admissible.

MR [illegible]: No, indeed. That is not the law -- absolutely not.

MR [illegible]: All those questions can be determined later on.

MR [illegible]: In connection with justice and truth and fair play, I wish to ask this witness if at the time Wise Boys made any statement or uttered any word at all, he is certain of the presence of the defendant Arbuckle in that room. That is fair. The witness has already stated he didn't know.

MR [illegible]: Just a moment. The witness has testified on cross examination that they all went in together, and that they all came out together. Now it is manifestly improper for counsel on the other side to interrupt the cross examination with a suggestion of that character.

THE [illegible]: As I understand the testimony of the witness he stated, I believe, that the defendant entered the room first, followed by practically all the parties who had been in room 1219,

and all the men stayed there for a certain length of time until they departed from that room and left the women behind them -- which would necessarily presuppose that the defendant was in the room during the entire time that any conversation occurred.

MR [illegible]: I appeal to the record. This witness stated just a few minutes ago that he couldn't tell where Arbuckle was at that time. If he can't tell it, any statement she made is absolutely inadmissible. The record will so show that.

MR [illegible]: We have both statements here. It is for the court ultimately to determine which statement is the truth,--taking into consideration the bias and the animus of the witness and the circumstances under which the testimony was elicited.

THE [illegible]: I understand on the other hand the District Attorney will claim that the statements are admissible as a part of the res gestae in the event of it subsequently developing that such is the case.

MR [illegible]: Either res gestae or a dying declaration, I assume.

MR GOLDEN: Not a dying declaration.

MR [illegible]: Then we are all agreeable -- it must be shown it is part of the res gestae?

THE COURT: Yes.

MR [illegible]: It is admissible on two theories, part of the res gestae, the history of an event then in progress, or was intimately and closely related to it -- it can not be separate from it -- and also upon any theory that may any a declaration, go in.

MR [illegible]: not in a criminal case. I don't understand such a rule of law in a criminal case.

THE COURT: I don't know what is going to develop as the result of this question. It might be perfectly harmless to the defendant, as far as I know. The only thing is this: If it be proven that a statement was made in the presence of the defendant accusing him possibly of a crime - assuming that to be the nature of the statement, it would be admissible on the theory that it is a declaration made in his presence which he had the opportunity to disclaim and perhaps did disclaim. I don't know whether he did or not. That will develop.

MR. DARROW: That is correct, your Honor. We agree with you fully on that proposition. But the defendant must be present when the declaration was made. And I tell you now the record will show this witness testified a few minutes ago that he didn't know whether the defendant was there or not. And if the defendant was not there we will agree that declaration is inadmissible against the defendant.

THE COURT: Whether or not the defendant was there, and the question is being asked on that theory, -- the District Attorney says he is going on the other theory it is part of the res gestae.

MR. DARROW: On both theories.

THE COURT: If it is part of the res gestae that will have to be determined by the circumstances.

MR. DARROW: What is the question? We will have to go away back, Mr. Gallagher.

MR. DARROW: Let him read the record. That will be fine.

(Last question read by the reporter)

THE WITNESS: Would you read that again to me, Mr. Gallagher?

(Question referred to again read)

MR. DARROW: I object to that question on the ground it assumes

something not in evidence.

MR GOLDEN: I said "if anything?"

MR [illegible]: That is not the point. All the men -- that is the part I object to. The question now is for him to tell who were there when the lady made the alleged declaration.

MR GOLDEN: He has told it.

MR [illegible]: You want him to tell it again. You want the truth?

MR GOLDEN: We must bear in mind that under counsel's own contention we are here in cross examination. The situation is precisely as though he had been examined in chief, and we are cross examining him -- and on cross examination we had elicited from him the statement, to wit, that including Arbuckle they all went in the room together, and they all stayed there, and they all went out together. Surely it is manifestly improper for counsel on the other side to interrupt the cross examination and suggest a question --

THE COURT: To get the record straight I am going to permit the witness to say who was in the room at the time the deceased made the statement ascribed to her, if any -- that is, if she made any statement-- who was in the room at the time the statement was made.

THE WITNESS: I cannot say positively who. I know I was.

MR GOLDEN: Q. You have already testified that you all went in the room together, didn't you? A. Yes, sir.

Q. Including Mr. Arbuckle? A. Yes, sir.

Q. And you have already testified that you all went out of the room together -- you so stated here?

A. I didn't state we all went out together.

Q. Didn't you? A. No, sir.

THE COURT: Go over the testimony and let us straighten it out.

MR GOLDEN: Q You have so testified.

THE WITNESS: How could I hear her declaration if I went out with them?

Q. I say you have so stated here, that all the men went out together and left the women behind? A. Yes, sir.

Q. That is true? A. Yes, sir.

Q. Now then what did Miss Rappe say?

MR DEMINGUEZ: I want the question put by the court put to the witness first.

MR GOLDEN: I am going to object to the interruption of this cross examination. Counsel has no right to interrupt the cross examination. And I suggest, with all respect to your Honor, they haven't any right to clear up anything. They can do it on redirect.

MR DEMINGUEZ: If your Honor please, the harm and injury will have been done. This court is sitting here simply as a committing magistrate. The court has a right to ask anything. Just the same as we have. The court has already asked the witness a question. We think before the cross'examination goes any further that question ought to be answered.

MR GOLDEN: The court must also bear in mind the situation with reference to the witness. And the witness has at least the average intelligence, and is very quick to perceive the point of an objection.

THE COURT: This witness is evidently an adverse witness, testifying rather reluctantly, and I think that under the circumstances

[illegible] Go over the testimony and let us straighten it out.

[illegible] You have so testified.

[illegible]

[illegible]

[illegible] Yes, sir.

[illegible] Yes, sir.

[illegible]

[illegible]

[illegible]: I am going to object to the interruption of this [illegible] examination. Counsel has no right to interrupt the cross [illegible]. And I suggest, with all respect to your honor, [illegible] haven't any right to clear an anything. They can do it [illegible].

[illegible] The court has a right to ask anything. Just the same as [illegible]. The court has already asked the witness a question. We [illegible] the cross-examination goes any further that question [illegible].

[illegible]: The court must also bear in mind the situation with [illegible] the witness. And the witness has at least the average [illegible] and is very quick to perceive the point of an ob-[illegible].

[illegible] is evidently an adverse witness, testi-[illegible], and I think that under the circumstances

I am justified in accepting his narrative, as I understand it, from what has already transpired, and that is to the effect that all the men were in the room and left simultaneously at the same time -- one with the other.

MR DARROW: Read the question again, sir. Allow him to answer the question put by your Honor. State it.

THE COURT: No, I will allow the question of the District Attorney.

MR DARROW: All right, sir.

THE COURT: I feel I was probably taking the case a little away from the District Attorney when I volunteered a question myself. Perhaps the District Attorney resents the attitude.

MR GRAVES: We never resent anything your Honor does. Of course counsel on both sides have their thoughts in asking questions, and their thoughts the court can not always fathom.

THE COURT: Of course the object of this inquiry is to arrive at an understanding of the situation there.

MR DARROW: The point is this: If cross examination can be interrupted in this fashion the value is destroyed.

Q. What was it that Miss Hoyle said when all the men were in the room?

MR DARROW: I object to that last part of the statement of the District Attorney as something not in evidence.

MR GRAVES: It has been in evidence now several times.

THE COURT: I think in view of my construction of the situation that you can afford to omit that part of the question.

MR DARROW: All right. Q. What was it that Miss Hoyle said at the time that you were in room 1219?

of the view that no e room [illegible]

[illegible] very light. [illegible] it part [illegible] that

[illegible] to omit that part of the question.

[illegible] of [illegible] by stating

[illegible] attempt to establish evidence.

[illegible] [illegible] [illegible] [

A. That I was in the room?

Q. Yes.

A? She said "I am dying."

Q Anything else? A. That is all; repeated it twice.

MR [illegible]: At this time, if your Honor please, under your Honor's instruction, I desire to move that the answer be stricken out as not part of the res gestae. And in that connection I cite your Honor to a case your Honor is quite familiar with, the People vs. Ah Lee, 60 Cal., page 90. The authority in this case has not been overruled or modified. I am reading from page 90. (Reads)

MR [illegible]: That hasn't anything to do with this.

MR [illegible]: Yes, it has. She said "I am dying." Just the same, your Honor, I am now citing the case of the People vs. Mason in 62 Cal., -- statements made by a deceased immediately after he had been shot. "Statements of the deceased made after the shooting form no part of the res gestae and are not admissible in evidence."

MR [illegible]: Was the defendant present in that case?

MR [illegible]: I think he was present, judge.

THE [illegible]: Let me ask you this, counsel: Didn't it appear from subsequent developments that the statement made by the deceased was perfectly true and correct?

MR [illegible]: For instance we have this testimony here. The witness says -- she was saying: "I am dying; I am dying." There wasn't any act on the part of the defendant after that time, your Honor to contribute to any alleged offense, act or crime.

THE [illegible]: What harm then, is there in the admission of the statement?

V. Don't get in the mood.

C. Cue.

V. Don't be ridiculous.

C. Cue.

V. Don't get in the mood.

MR COHEN: The only thing is this: The law is uniform on the proposition that no statement either descriptive or narrative, or events is admissible -- or part of the res gestae. The purpose is to show every act or circumstance going to form part of a crime -- or showing that he is doing something in furtherance of the crime, -- but not anything that is descriptive of anything that has been done. That is the point I am making. I say to your Honor there are numerous authorities, but I have gone upstairs and got just a few of them--just a few of them.

MR GOULD: Did our office give them to you?

MR COHEN: Yes, sir.

MR O'REAR: What is before the house?

THE COURT: A motion, I presume, to strike out the answer. I am going to deny the motion subject to a subsequent motion to strike out if no connection is shown.

MR COHEN: Very well, your Honor.

MR WILLIAMS: Can you tell us anything else that was said or done before the men left room 1219?

A. In what respect?

Q. In any respect. Tell us everything that took place.

A. Only I recollect --

MR WILLIAMS: I insist if your Honor please, it must be in the presence of the defendant.

THE COURT: I am assuming that to be the case. I might be wrong in that assumption, but I think the witness has said enough to warrant that assumption.

MR COHEN: I see, Mr. Somesuher, as you testified a little while ago, you were in there--all of you-- several minutes. I want

you to tell us everything that was said and done in that room and everything that Miss Rappe did.

A. That is all that Miss Rappe did and said, not as I testified a few moments ago.

Q. And what was said and done in the room by the others?

A. Mr. Arbuckle requested someone to get a doctor.

Q. Where was he, in room 1219?

A. That I don't know, whether it was 1219 or 1220.

Q. I want to know what was said and done in 1219 before the men left? A. This could have been said in 1219 or 1220.

Q. Listen, Mr. Semnacher. I want to know what was said and done in 1219 before the men went out of that room.

A. I can't be specific about that, where it was said.

Q. Can you tell us anything that was done in 1219 or said in 1219 outside of the fact that Miss Rappe was moaning and she said she was dying? A. Yes. One of the ladies suggested that Miss Rappe be given bicarbonate of soda. Another one said "Ice." Another one said "Ammonia". Different suggestions were made to relieve Miss Rappe.

Q. What lady suggested the giving of ice?

A. I don't know; but I do recollect that Miss Blake was the one that suggested bicarbonate of soda.

Q. I am asking you which one said anything about ice.

A. I don't remember.

Q. Did anyone say anything about ice? A. Ice, yes, sir.

Q. Are you absolutely positive about that? A. Positive.

Q. Before today in being questioned on that subject have you ever said to anyone that one of the ladies suggested giving Miss Rappe ice?

MR [illegible]: Just a minute. To which we object as incompetent and immaterial and assuming something not in evidence.

THE COURT: This is practically cross examination. In fact it is cross examination and it is allowed just to test the credibility of the witness-comparing one statement with another.

MR [illegible]: Would you repeat that Mr Gallagher, please that question?

(Last question read by the reporter)

A. I don't remember.

Q. Now listen Mr Semmacher, you know, don't you, that you have been interrogated with respect to your knowledge of this affair a number of times, haven't you?

A. Yes, sir; that is the reason I made the statement--I cannot tell exactly what I said on different occasions.

Q. I am going to ask you whether you have ever said to anybody connected with the office of the district attorney, or any representative of the law, that one of the ladies suggested giving Miss Rappe ice? A. I don't know. The testimony will show that. My deposition will show that, whether I did or not.

Q. Have you always remembered before today, that one of the ladies in 1219 suggested giving Miss Rappe ice?

A. I might have.

Q. Have you or have you not? A. I don't know.

Q. Have you ever forgotten since you heard thesuggestion on September 5th, 1921, up until today, up until the time that you mentioned it a few moments ago in this court room, that one of the ladies in 1219 suggested giving ice to Miss Rappe?

A. I don't remember.

[illegible] To which we object as incompetent and [illegible] something not in evidence.

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] sir, that [illegible] the reason I made the statement--I cannot tell [illegible]

[illegible] to ask you whether you have ever said to anybody [illegible] with the office of the district attorney, or any representa[illegible]

[illegible] will show that, whether I did or not.

[illegible] remembered before today, tat one of the ladies [illegible] giving Miss [illegible] ice?

[illegible]

[illegible] you not? A. I don't know.

[illegible] forgotten since you heard the suggestion on [illegible], up until today, up until the time that you [illegible] in this court room, that one of the [illegible] giving ice to Miss [illegible]?

[illegible]

Q. Then you don't remember whether you have always remembered it, or whether you have forgotten it; is that right?

A. I don't -- my deposition will show.

Q. Independent of your deposition? A. I can not say.

Q. Is your recollection on the subject of a lady suggesting that someone give Ise better today than it has been prior to today?

A. No -- no better.

Q. When was the first time that you ever mentioned the subject of Ise in connection with the questions that have been put to you as to your knowledge of this affair? A. That I don't know.

Q. Then have you ever before today --

THE COURT: The witness has repeated that.

MR [illegible]: I know, if the Court please. I am asking it in different ways and there is a purpose in it.

THE COURT: Well, I think you have developed your purpose, whatever it may be, already.

MR [illegible]: I want to know, with all due respect to the Court--I want to know whether you ever mentioned the subject of Ise--I don't care how it was mentioned -- whether the subject of Ise was ever mentioned by you prior to the time of your being questioned in Los Angeles a day or two ago? A. I don't remember.

Q. Then as far as you know now, the first time you ever mentioned the subject of Ise, in whatever connection it was used, with respect to this case, was the testimony given by you today, and to such questions as were asked you in Los Angeles, a few days ago; is that right?

A. I didn't state that; I don't remember.

Q. I say, as far as you know, however -- as far as you can now recall; however, you have never discussed or mentioned the subject of Ise

in connection with this case until today; is that right?

A. I am neither affirming it nor denying it.

Q. Now Mr. O'Brien calls my attention to page 153 in your testimony given before the coroner in the city and county of San Francisco. It is at the bottom of 153, "Q. What was the procedure of or entering the room? What was done? A. I sat on one side of the bed, I believe, and Mrs. Belmont on the other side, and we were rubbing her hands, and one of the ladies suggested as I said, to either give her some ammonia, bicarbonate of soda -- and someone did get some water and in a glass, and poured it down her throat, which she immediately vomited up, and Miss Belmont was still rubbing her hands, or her head, and said 'One of you girls put some water in the tub,' which they did. And Miss Belmont said, 'Come on', said to one of the girls, 'Let us take Miss Virginia and put her in the tub and see if this will do her any good.' All of us believing she was intoxicated--Mrs. Belmont, including myself. The men of the party they all entered room 1420. One of the girls put Miss Harpe in the bath tub."

That is what you testified before the coroner?

A. I suppose so, if you have it there.

Q. Is that correct?

A. I don't remember what I testified to. I have no copy of it.

Q. Can you remember anything else that was said and done in that room before the men went out?

A. Just as you just said.

Q. Anything else? A. Just as I said before, about the doctor -- Mr. Crouzkie asking someone to call a doctor.

Q. Yes--anything else?

A. Which was done. And also someone telephoning to the assistant manager, Boyle of the St. Francis Hotel asking him to get a room for Miss Rappe.

Q. Did you hear someone telephone for Mr. Boyle, the assistant manager of the hotel?

A. No, I did not hear that; I heard it in the course of conversation later.

Q. Now when the men went into room 1220 they left the ladies with Miss Rappe in 1219? A. Yes, sir.

Q. Did you see what was done with Miss Rappe while she was in 1219?

A. The door was open and we could see. The door was open between rooms 1219 and 1220 and we could see the ladies taking Miss Rappe into the bath room of room 1219.

Q. Did any of the men help carry Miss Rappe into 1219?

A. I don't think so.

Q. You didn't see any of them do it? A. No, sir.

Q. Where was Mr. Brunckie at the time they were carrying the girl to the bath tub? A. In room 1220 with me.

Q. Where was Mr. Sherman? A He was also.

Q. And Mr. Fishbeck? A. And I believe Mr. Fishbeck.

Q. You saw Sherman there in 1220?

A. It is my recollection we were all in room 1220 when the girls took Miss Rappe to the bath room.

Q. Was Mr. Fishbeck--

A. I just stated that we were all in the room, to the best of my belief we were all in the room when they took Miss Rappe into the bath room of 1219.

Q. Which one of the ladies was it carried Miss Boyle into the bath room?

A. I believe Miss Blake, Miss Prevost and Mrs. Belmont.

Q. Did you see the ladies take her out of the bath tub--or take her from the bath room back into the room, 1219?

A. Naturally.

Q. You saw that did you? A. Yes, sir.

Q. Were all the men still in 1220 while the girl was being carried from the bathroom into room 1219?

A. That is my recollection.

Q. And these three ladies, Mrs. Belmont, Miss Blake, and Mrs. Prevost carried her back? A. Yes. And it seemed to me there were three or four more ladies, but I am not certain.

Q. What were their names? A. I don't know.

Q. Were you in to see apartments when the maid or some one up, Mr. Boyle?

A. Yes, sir.

Q. Between the time that you came or between the time that you went into 1220 together with the rest of the men and the time that Mr. Boyle, the assistant manager came up, did anyone else come into those apartments? A. I don't remember.

Q. What is it? A. I don't remember.

Q. Do you remember any other person being present?

A. No, I just stated I don't remember.

Q. Now when the manager Mr Boyle came upstairs, please give me the names of everybody who was in the rooms of Arbuckle in the St. Francis Hotel, San Francisco?

A. You mean any of the three rooms?

Q. Just give me the names of all of them.

A. Mr Arbuckle, Mr Sherman, Mr Fishback, myself, Miss Blake, Miss Prevost, Mrs Belmont, Miss Harpe and I think-- I am not making a certain - a positive assertion, but I think Miss Clark and Miss Campbell.

Q. Anyone else? A. Mr Boyle.

Q. Anyone else? A. Not that I remember.

Q. Whom said "Get a room for Miss Harpe? "

A. I don't know who that was.

Q. You don't know who it was?

A. No, I don't know who that was. You want a positive statement on that, don't you?

MR BOYLE: I want the statement as you remember it. I am not asking for statements either positive or not positive. Q. What is your statement on the subject now - who said "Get a room for Miss Harpe"?

A. My statement is, I believe Mr Fishback.

Q. Do you remember whether or not you told the grand jury it was Mr Arbuckle? A. No.

Q. You don't remember that?

A. I don't remember. I would have. It was somebody there, remember that--somebody ordered the room.

MR BOYLE: The witness is entitled to be shown the record. I don't think it is quite fair-- I don't think that Judge Golden intends to be unfair - he makes the statement that he made a statement before the Grand Jury. It is his duty to show the statement to the witness.

THE COURT: If you wish to impeach the witness you will have to do it.

MR GOLDEN: This is not an impeaching question. I am not asking him whether he remembers making a statement to the Grand Jury to a contrary effect.

THE COURT: It is your duty under those circumstances to read the statement.

MR GOLDEN: It is no different from a question whether or no he made a statement to the chief of police in a conversation, or any other time or place. It is not asked for the purpose of impeachment.

MR DEMINGUEZ: If it is asked for the purpose of refreshing his memory, then it is your duty to show it to him.

THE COURT: Let the discussion end. I don't see as it is very important at this time.

(Last question and answer read by the reporter)

MR GOLDEN: Q. Now after Mr Boyle came tell us what took place.

A. He assigned a room to Miss Happe, room No. 1227, and someone carried her to that room from 1219.

Q. Do you know who carried her out? A. No, I don't.

Q. Did you see who carried her out? A. No, sir.

Q. How do you know she was carried out?

A. I saw somebody carry her out.

Q. Then you did see somebody carry her out?

A. I stated that.

Q. Who was it? A. I don't know who it was.

Q. Was it a man, woman or child?

A. I don't know; it could have been a man or a woman.

Q. Didmore than one carry her out? A. I don't know.

Q. Did Mr Drouckle carry her out? A. He could have.

Q. Where did you stay after Miss Hayne was carried out?

A. Somewhere in room 1220.

Q. Who remained with you while Miss Hayne was being carried out?

A. I don't know who was in there.

Q. Was an one in room 1220 with you at the time Miss Hayne was being carried out? A. Some people were there.

Q. Who were there? A. I can not answer their names. I don't recollect who they were.

Q. Can you remember the name of one?

A. Yes, I remember Mrs. Belmont.

Q. Anyone else? A. I believe Mr. Fishback--Miss Blake and others.

Q. Anyone else? A. I don't remember.

Q. Now you gathered together Miss Hayne's clothing, didn't you?

A. Yes, sir.

Q. When was that?

A. After they removed her to room 1227.

Q. How long after Miss Hayne was removed to room 1227 was it that you gathered together her clothing?

A. I should think about fifteen or twenty minutes.

Q. 1227 was the room to which Miss Hayne was removed--correct?

A. Correct.

Q. Now had you been to room 1227 before you gathered together her clothes? A. Yes.

Q. Then as I understand it you left the Drouckle rooms and went

to 1227 after Miss [illegible] was carried into that room?

A. Yes.

Q. Then you left 1227 and came back to the Arbuckle apartments--right? A. Yes.

Q. Who was in the Arbuckle apartment if anyone, when you came back?

A. I believe every one that was present when I left them a few moments before.

Q. Had anyone come in in the meantime--any other person?

A. Not that I recollect.

Q. Did anyone tell you to gather her clothing together?

A. No, sir.

Q. You did that of your own accord?

A. Yes, sir. The lady was in my charge.

Q. Now what clothing did you gather together?

A. Hat, cape, garters, shoes, skirt, jacket, -- what do they call that other thing,-brassiere,

Q. When you went into room 1219, following the two girls who had just come out and said Miss Rappe was sick, did you notice the other bed in room 1219? A. Yes.

Q. Did you observe its condition? A. Casually.

Q. Did you see whether it was wet or dry?

A. I believe it was wet.

Q. You know it was wet, dontyou?

A. I don't know positively, no.

Q. What makes you say you believe it was wet?

A. Because the remark was made by someone that Miss Rappe had vomited on that bed.

Q. And did you see the evidence of vomiting on the bed?

A. I don't know whether I paid any attention to it or not.

Q. Did you or did you not? A. I don't know.

Q. I haven't finished the question--as you can't answer it at you don't know until I finish it--(continuing question) Did you or did you not see any evidence of vomiting on the other bed?

A. I don't know whether I did or not.

Q. Did you or did you not see any vomiting, or the evidence of any vomiting on any bed? A. Yes.

Q. On which bed? A. This one (pointing)

Q. In the bed in which she was lying made? A. Yes, sir.

Q. That was a vomiting after taking bicarbonate of soda?

A. Yes, sir, I was there when she vomited.

Q. You were. She vomited as the result of taking bicarbonate of soda. Did you see the evidence of vomiting on any bed?

A. I did not pay any attention.

Q. Then I am asking you again, was the bed -- the other bed -- not the one on which she was lying made -- wet or dry? If you know, say so, and if you don't know, say so.

A. I can not say positively.

Q. You don't know anything about it?

A. I know that someone stated she had vomited on that bed.

Q. Did you see the other bed?

A. Certainly I saw the bed.

Q. Do I if you saw it, tell us whether it was wet or dry.

A. I can not say;I didn't pay any particular attention to the bed.

Q. Was it wet toward the top or was it wet toward the bottom?

A. I don't know.

Q. Miss Kempe's clothing, were they wet or dry? A. Dry.

Q. Was there any one in the room, 1219, that you saw when you came in? A. No.

Q. Following the ladies after they discovered that Miss Kempe was very sick? A. Only a glass of ice water.

Q. Did you see any xxxxx ice in the room at all-- I didn't ask for the water? A. No I did not.

Q. Now when you gathered together Miss Kempe's clothing, where were they? A. In room 1219.

Q. In what part of the room -- how were they lying?

MR. [illegible]: That has already been asked and answered two or three times.

MR. [illegible]: When they gathered them together--he testified the condition they were in when they went in.

MR. [illegible]: Q. When you gathered them together where were the clothes of the deceased?

A. Some articles were on the floor, and some on chairs.

Q. Had any of the articles changed their relative positions from the positions that they occupied when you first saw them?

A. I don't know.

Q. You took some from the chair? A. Yes, sir.

Q. Did you take any from any place else?

A. Might have taken a hat from off the chair or the dresser.

Q. Did you take the articles out of room 1219?

A. Yes, sir.

Q. And you took them where? A. To room 1227 occupied by Miss Kempe.

[illegible]

[illegible]

[illegible] clothing, were they wet or dry? A. Dry.

[illegible] in the room, 1219, that you saw when you came [illegible] A. [illegible]

[illegible]

[illegible]

[illegible] A. No I did not.

[illegible]

[illegible] In what part of the room -- how were they lying?

[illegible] that has already been asked and answered two or three times.

[illegible] when they gathered them together--he testifies the condition they were in when they went in.

[illegible] of the deceased?

[illegible]

[illegible]

[illegible]

[illegible] Y u took some from the chair? A. Yes, Sir.

[illegible]

[illegible] Might have taken a hat from off the chair or the dresser.

[illegible]

[illegible]

[illegible]

Q. What did you take to 1227?

A. I just told you that a few minutes ago.

Q. Well, tell us again, please.

A. The hat, cape, shoes, garters, drawers, waist, skirt, -- that is about all.

Q. Well, did you take the shirt waist and her drawers?

A. Not at that time.

Q. Did you take her stockings? A. I did not.

Q. Where were the shirt waist, the drawers and the stockings of Miss Rappe at the time you took the other garments into 1227?

A. The shirt waist and drawers were in the waste water basket; the stockings were on the floor.

Q. How near the you was the waste basket at the time these clothes, the shirtwaist and the drawers, were in there?

A. About five feet, I should judge.

Q. When did you take, if at all, the drawers and the stockings and the shirtwaist?

MR DEMINGUEZ: With reference to what?

MR [illegible]: With reference to taking the other garments into 1227.

A. The second time I returned from room 1227.

Q. Then as I understand it, you took in Miss Rappe's garments to 1227? -- left 1227 and went back to 1219 -- correct?

A. Yes, to see if everything had been overlooked, belonging to Miss Rappe.

Q. When you came back to 1219 after having taken the garments to 1227, who was in the Arbuckle apartments?

A. I believe everybody that had been there before.

Q. Was anybody missing from the apartments?

A. I did not notice.

Q. Did any one come in in the meantime?

A. I did not notice.

Q. When you and Mr. Arbuckle and the rest of them went into 1219 following the announcement that Miss Rappe was sick, how was Mr. Arbuckle dressed?

A. The same as when I first went up into the room 1227 -- pajamas, dressing gown and slippers.

Q. Did you notice whether Mr Arbuckle's dressing gown was wet?

A. No I had no occasion to do that.

Q. You didn't observe one way or the other? A. No.

Q. Don't know a thing about that?

A. Don't know a thing about that.

Q. Do you know whether his pajamas were wet or dry? A. No, sir.

Q. Don't know anything about that? A. Not a thing.

Q. No one said anything about that in the room in his presence?

A. No, sir.

Q. Now when you came back to 1219 after having been in 1227, with Miss Rappe's garments, what did you do?

A. What do you mean, what I did?

Q. What did you do when you came back to room 1219?

A. Went over the room to see if there were any more articles belonging to Miss Rappe in room 1219.

Q. Did you at the time tell anybody what you were going into 1219 for?

A. No; why should I?

Q. I don't know. I am asking you if you did.

A. No. That is just a phrase.

Q. You say you looked around to see if there was anything else belonging to her there? A. Yes, sir.

Q. Did you find anything?

A. In passing the waste paper basket I noticed something shining. I bent down and picked up a severed cuff -- containing a cuff link, belonging to Miss Rappe. And I took the other part of the waist and the drawers--looked at them -- they were torn to shreds -- and to me useless. I threw them back again into the waste paper basket after removing the cuff links and picking up the bracelet -- a jade bracelet. Then I thought anything by mind--

MR DOMINGUEZ: Just a minute.

MR GALLAGHER: Never mind about the thought entering your mind.

A. You wanted to know what I was doing.

MR GALLAGHER: Mr Dominguez isn't interested in your mental operations. Let us get right along.

THE WITNESS: Will you tell me what I said, Mr Gallagher, when I was interrupted?

(Last part of answer read by the reporter)

MR GALLAGHER: Never mind about the thought, but go on from that point.

A. Then I should forget my mind -- what entered my mind?

THE COURT: Tell what happened there, what you did?

A. I took the garments out of the waste paper basket again, for the purpose of learning Miss Rappe about her intoxicated condition, and her actions in tearing her clothes, on her way to Belmonte later that evening.

Q. You had taken her garments into 1221? A. Yes, sir.

Q. You came back from 1227 looking to see if you had overlooked

anything? A. Yes, sir.

Q. You walked through 1220 into 1219, the men were all there, and told them nothing as to your purpose?

A. I did not say anything to anyone.

Q. In looking around 1219 you observed something shining in the waste basket? A. Yes, sir.

Q. And then it was you found the torn shirtwaist and the torn drawers? A. And the cuff link and the bracelet.

Q. And what about the stockings?

A. I don't know what became of them. They were all torn.

Q. The stockings were torn and lying on the floor? A. Yes, sir.

Q. Did you take the stocking, too?

A. No, I did not.

Q. You left them lying on the floor, did you?

A. I suppose I did., because they never got in my possession.

Q. Well, when you went back into 1218, after having taken the garments into 1217, did you see the torn stockings lying on the floor?

A. I don't remember.

Q. The stockings were torn, however? A. Yes, I saw them when I entered the room -- in fact, I stepped on them.

Q. Then you don't know what became of the torn stockings?

A. No, I don't know what became of them.

Q. Someone else might have taken the torn stockings to josh Miss Hayes with? A. They might have that is not improbable.

Q. When you took out the torn garments from the waste basket--that is to say the shirtwaist and the drawers, you threw them back into the waste basket the first time?

A. Yes, sir, retaining the cuff links and bracelet.

Q. And then withthe cuff links -- what did you do with the cuff links and the bracelet?

A. I put them in my pocket.

Q. And then after having put the cuff links and the bracelet in your pocket where did you go?

A. Do you mean after I took up the garments?

Q. No, no -- you had thrown back -- you first took the garments out of the waste basket and threw them back again? A. Yes, sir.

Q. And you put the cuff links and bracelet in your pocket--correct? A. Correct.

Q. Now, having done that, did you leave room 1219? A. No.

Q. What next did you do?

A. Just as I stated before, I immediately took these garments out of the waste basket again.

Q. After having taken them out and thrown them back, you took them out again -- is that right? A. Correct.

Q. And you don't know what became of the stockings - the torn stockings? A. No.

Q. And you don't remember seeing the torn stockings at the time you took out the shirtwaist and the torn drawers--the torn shirtwaist and the torn drawers from the waste basket?

A. No, I didn't see them at all.

Q. Now what did you do with the shirtwaist -- the torn shirtwaist and the drawers when you took them out of the waste basket?

A. I took them in room 1227.

Q. How did you take them in? A. In my hands.

Q. Carried them in your hands, did you? A. Yes, sir.

[illegible] with the suff links -- what did you do with the suff [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] A. [illegible]

[illegible], having done that, did you leave room 1229? A. No.

[illegible] What me t did you do?

[illegible] I stated before, I immediately took these garments out [illegible]

[illegible] is that right? A. Correct.

[illegible] you don't know what became of the stockings - the torn [illegible]? A. No.

[illegible] the torn drawers from the waste basket?

[illegible]

[illegible] How what did you do with the shirtwaist -- the torn shirtwaist [illegible]

[illegible]

[illegible]

[illegible] did you? A. Yes, sir.

Q. You remember that? A Yes.

Q. Before you took them to 182 did you ever exhibit the torn shirtwaist or the torn drawers to anybody?

A. Not to my recollection.

Q. Did you ever show them to anybody?

A. Not to my recollection.

Q. Did you ever say "Look here -- Did you ever say to anybody in the Arcuzzle apartments there, room 1213, 1220 or 1221, "Look at these torn garments?" A. No.

Q. You are certain of that?

A. I feel positive.

Q. During the time -- or from the time that you took the torn shirtwaist and the torn drawers out of the waste basket, and while you were in either 1213, 1220, or 1221, -- in other words, while you were in the Arcuzzle apartments, you did not put them in your pockets?

A. I don't think I did.

Q. Are you quite sure you kept them in your hand, and as you kept them in your hand you carried them into 182?

A. Yes, sir.

Q. And you said nothing to anybody respecting the garments while you were in the Arcuzzle apartments at that particular time?

A. No, sir.

Q. And nobody said anything to you?

A. No, sir, to the best of my recollection.

Q. Now, then you put in the waistcoat and the cuff links were in your pocket -- correct? A. Correct.

Q. And the torn shirtwaist and the torn drawers were in your hands?

A. Yes, sir.

Q. And that is the condition you carried them through the hall into 1227? A. Yes, sir.

Q. When you got into 1227 what did you do with the cuff links and the bracelet? A. Kept them in my pocket.

Q. And what did you do with the shirtwaist and the drawers?

A. Placed them on either a chair or the bureau.

Q Did you leave them in 1227? A Yes.

Q. The shirtwaist and the drawers?

A. The shirtwaist and the drawers.

Q. Left them there? A. Yes, sir.

Q. And where did you go--after you left them in 1227 where did you go? A. I believe I went back to room 1220.

Q. Have you any distinct positive recollection of going back to 1220? A. No distinct recollection.

Q. Do you know of anything -- who made it, or said or heard said, or saw done in 1220 after you left 1227, having just deposited and left in that room the torn shirtwaist and the torn drawers?

A. I don't know my exact motions at that time.

Q. Do you know where you went when you left the shirtwaist and drawers in 1227? A. I believe I went back to room 1220.

Q What did you go back there for?

A. Where the rest of the party was.

Q. And you left the torn shirtwaist and the drawers lying in 1227?

A. Yes. Mrs. Helmont and Miss Mayer were there.

Q Where did you leave them?

MR [illegible]: Let us get that straight, where they were.

MR [illegible]: In 1227.

[illegible]

[illegible] did you do with the suff lines and [illegible] Kept them in my pocket.

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] No distinct reproduction.

[illegible] know of anything -- who made it, or said or heard said, [illegible] you left 1227, [illegible] just [illegible] and [illegible] from the torn shirtwaist and the torn drawers.

[illegible]

[illegible] where you went when you left the shirtwaist and [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

MR [illegible]: You are talking about shirtwaist and other things.

MR GOLDEN: In 1227. Q That is correct, isn't it?

A. Yes, Mrs. [illegible] were in 1227 where the garments were.

Q. And You left all of the garments, that was eastern in 1227, and went back to 1220? A. Everything.

Q. When you went back to 1220, who did you see?

A. I don't know.

Q. I mean to say after you left the garments in 1227.

A. I don't know who was there. I don't know everyone that was there.

Q. How long did you stay there?- A. I don't remember.

Q. What? A. I don't remember.

Q. Did you stay there an hour?

A. It could have been a half an hour--ten minutes-- I believe it was near six o'clock -- and I telephoned the Palace Hotel from Room 1220, checking me out.

Q. You say it was around 6 o'clock when you telephoned down to the Palace hotel? A. Yes, sir, before six o'clock.

Q. Somewhere around? A. Yes, sir.

Q. And from the time that you got back to 1220, or 1220 or 1221, after having left the garments in room 1227, you stayed in those Arbuckle apartments until you telephoned to the Palace Hotel?

A. Until I left the St. Francis Hotel for the Palace Hotel.

Q. You telephoned the Palace Hotel from one of the Arbuckle rooms?

A. Yes, sir.

Q. Which room was it you telephoned from?

A. I believe it was 1220.

Q. Now can you tell me the names of [illegible] the people who

were in the rooms of Mr Arbuckle from the time -- during the interval of time between the time you came back to those rooms after having left the garments in 1227, and the time that you left the St Francis Hotel to go to the Palace hotel?

A. I don't know.

Q. Can you tell me whether any of the party had left those apartments during that interval of time? A. That I don't know.

Q. Can you tell me whether any new people came in during that interval of time? A. I don't think there had.

Q. You don't remember any? A. No, didn't think any had.

Q. Now then you tell me--from the time that you came into those rooms after having left the garments in Miss Harris's room, 1227, until you telephoned, you didn't leave those apartments of Mr. Arbuckle, did you. You remained right there?

A. Yes, in 1220.

Q. And after you telephoned you immediately left for the Palace Hotel?

A. Yes, sir.

Q. You didn't go anywhere else except the Palace Hotel, is that right? A. The Palace Hotel and the garage.

Q. You left 1220, was it? A. 1220.

Q. And you walked the hall -- that corridor on that diagram, and took the elevator and went downstairs, is that right?

A. Yes, sir. Miss Prevost was with me.

Q. And you didn't go anywhere else?

A. Except the Palace Hotel.

Q. Didn't go anywheres in the hotel? A. No.

Q. And you went downstairs and went in the Palace Hotel did you?

A. Yes, sir.

Q. How did you go down to the Palace Hotel?

A. In a machine.

Q. In your machine? A. Yes, sir.

Q. You found it parked in-- A. Yes.

Q. You found it parked there on Powell street? A. Yes, sir.

Q. Now, Miss Prevost, you say, we t downstairs with you?

A. Miss Prevost.

Q. Did she ride down to the Palace Hotel with you? A. Yes, sir.

Q. Did she go upstairs with you in the Palace Hotel?

A. Neither one of us went upstairs.

Q. You had your belongings then, and the belongings of Miss Prevost and Mrs. Delmont taken from the Palace hotel, did you? A. Yes, sir.

Q. Who attended to that -- who did that?

A. The bell boy.

Q. He put all your belongings and those of Miss Prevost and Mrs. Delmont in the suitcases or grips? A. Yes, sir.

Q. Was anything put in those grips or suitcases besides your belongings? A. No, not that I know of.

Q. Then they were taken and put into your car were they?

A. Yes, sir.

Q. What did you do with them?

A. Took them to the St. Francis.

Q. Yes? A. And a bellboy take them up to room 1187.

Q. Bellboy took them up? A. Yes, sir.

Q. What did you do? A. What did I do?

Q. Yes. A. With the grips?

[illegible]. Yes, sir.

[illegible] you be so kind as to [illegible]?

[illegible] a question.

[illegible] [illegible]. A. Yes, sir.

[illegible] [illegible] there. [illegible].

[illegible] there no [illegible] store on [illegible] street? A. Yes, sir.

[illegible] [illegible] [illegible] there. [illegible].

[illegible] [illegible], sir. [illegible] [illegible]. [illegible]

[illegible] example.

[illegible] [illegible] room to the Quince Hotel with you? A. Yes, sir.

[illegible] [illegible] [illegible] [

Q. Yes. A. I didn't touch them after they left the St. Francis.

Q. The bellboy took them up to room 1227? A. Yes, sir.

Q. Did you go upstairs to room 1227 at the time the grips were deposited or delivered to 1227?

A. With the bellboy?

Q. Yes, sir. A. No, sir.

Q. Where did you go? A. I parked my car.

Q. On Powell street? Where, the same place?

A. On either Powell street or that other street -- I don't know positively which street.

Q. Don't you remember which street you parked your car on?

A. No, sir.

Q. Was Miss Forrest downstairs waiting then? A. When?

Q. When you came back from the Palace hotel.

A. She didn't stay in the car. She went upstairs.

Q. She went upstairs with the grips? A. I didn't state that

Q. She went upstairs somewhere? A. Somewhere.

Q. You don't know where she went?

A. I saw her in room 1220 later.

MR. DAVIS: If your Honor please, all this testimony given here the last twenty minutes is wholly immaterial -- every word of it -- has no bearing whatever on this case. I don't want to state that the examination should cease but that record is unnecessary -- what happened away from the St. Francis hotel and what he did with grips -- or where he went with Miss Forrest -- has nothing to do with this case.

MR. [illegible]: Your Honor will see it later. It is cross examination.

MR [illegible]: On immaterial matters -- immaterial stuff -- what this man did after he left the St Francis has nothing to do with this case -- can't have.

THE COURT: Unless subsequent actions can contradict some of his previous statements.

MR GOLDEN: There is a reason for all this.

THE COURT: I assume there is a reason. I have great confidence in the district attorney, and I feel he would not be wasting his own time and the time of the court unless he was developing something of legal significance.

MR GOLDEN: Both Mr O'Neil and Judge Healy know this has a significant purpose.

THE COURT: As I say, I have to take your word for that.

(Last question and answer read by the reporter)

MR GOLDEN: Q. At any rate she went upstairs and you stayed downstairs?

A. And parked the car.

Q. Then where did you go after parking the car?

A. Upstairs into room 1220.

Q. As I understand it, so you don't misunderstand each other -- You see we are coming back to the apartments -- Miss Provost and you came back from the palace hotel with the grips? A. Yes, sir.

Q. The bellboy took the grips and took them up to 1220 -- Miss Provost left the car and went somewhere upstairs?

A. Presumably to room 1220.

Q. You parked your car--correct? A. Correct.

Q. Immediately upon parking your car you didn't remember how much

[illegible]

[illegible] — [illegible] — [illegible] left the St Francis has nothing to do with this case — can't have.

[illegible] Unless subsequent actions can contradict some of his previous statements.

[illegible] a reason for all this.

[illegible] I assume [illegible] in the district attorney, [illegible] he would not be was ing his own [illegible] the court unless he was developing something of [illegible] significance.

[illegible] and Judge Brady know this has a significant purpose.

[illegible] is I say, I have to take your word for that.

[illegible]

[illegible]

[illegible] the car.

[illegible] did you go after parking the car?

[illegible] into room 1880.

[illegible] — [illegible] from the Palace Hotel with the grips? A. Yes, sir.

[illegible]

[illegible]

[illegible]

[illegible] A. Correct.

[illegible]

street it was -- You went to 1220? A. 1227.

Q. I thought you said 1220?

A. No, I said 1227.

Q. Now you went to 1227, is that right? A. Yes, sir.

Q. And who did you see in 1227 when you went there?

A. Miss Kaple and Mrs. Belmont.

Q. Anyone else? A. No, sir.

Q. How long did you stay there?

A. I guess 15 or 20 minutes.

Q. Did you do anything while you were there?

A. Talking to Mrs. Belmont.

Q. Anybody else? A. That is all.

Q. Did nothing else? A. That is all.

Q. You are sure of that?

A. I might have walked up and wodn, I don't know.

Q. That is all that you did? A. Yes, sir.

Q. Now then what was said in there of course is hearsay. Then where did you go? A. Then I entered room 1220.

Q. And who did you see in room 1220?

A. Quite a number of people.

Q. Give me their names?

A. Mr Arbuckle, Mr Fishbein, Mr Sherman, Miss Prevost, Miss Blake, Miss Clark, Miss Campbell, -- I don't know if there was any more there or not; but those I am positive of.

Q. Was there a lady by the name of Miss Lewis?

A. Not at that time.

Q. Later on? A. Later on.

Q. Now when you went to room 1220, after having visited 1227,

subsequent to your grips being delivered there, how long did you stay in 1220?

A. Possibly two hours, maybe three.

Q. And did you have your dinner or supper there? A. Yes, sir.

Q. All of you together? A. Yes.

Q. Mr Arbuckle and the rest? A. Yes, sir.

Q. And you left 1220 about what time?

A. About nine or ten o'clock.

Q. And did you go out of those rooms alone?

A. When I left at 9 or 10 o'clock?

Q. Yes. A. No. I went with Miss Campbell and Miss Clark, as I stated before.

Q. You took them downstairs? A. Yes, sir.

Q. On the way downstairs, did you stop at any place? A. No, sir.

Q. Didn't stop at 1227?

A. No, because I had been going back and forth to 1227 a half a dozen times.

Q. You had gone back and forth a half a dozen times to 1227?

A. Yes, to see how Miss Rappe was.

Q. You didn't do anything in those rooms during those half a dozen visits -- I mean room 1227? A. No.

Q. All that you did was to go in and look to see how she was, and come back? A. Yes. And on the occasion, I judge it was 8 o'clock when I opened the door, some doctor -- I don't know his name -- was giving Miss Rappe a hypodermic injection in the arm. I immediately closed the door and returned to room 1220.

Q. Now then, after 9 or 10 o'clock you and these two girls, Miss

Campbell and what was the other name? A. Clark.

Q. (Continuing) --left room 1128 and you left the hotel? --Right?

A. Yes, sir. Others left at the same time, --the other ladies that were there left at the same time.

Q. And what did Mr. Arbuckle do?

A. He wasn't there at that time.

Q. Where had he gone? A. Downstairs.

Q. How was he dressed when he went downstairs?

A. In evening clothes.

Q. Anyone go with him? A. Not that I know of.

Q. Now you went downstairs in company with these two ladies and you went right out of the hotel and found your car, did you?

A. Yes, sir.

Q. And you took them home after driving around San Francisco, as you testified? A. For two or three hours.

Q. And at one o'clock as you testified, you took them home, and parked your car, and you went to the room and saw Mr. Fishback --

A. No, sir, I placed my car in the garage before I saw Mr. Fishback, I believe; I think that is what it was.

Q. Parked your car where?-

A. In the Tunnel Garage.

Q. And after you parked your car you saw Mr. Fishback?

A. I came back to the St. Francis Hotel, saw Mr. Fishback, -- we went out and had something to eat.

Q. And then you went with him upstairs to his room?

A. After we returned from a restaurant.

Q. Room 378? A. That is where we stayed that night.

Q. Will you please tell me at what time the torn shirtwaist and garments got into--

MR. [illegible] Yes, Mr District Attorney--I withdraw the question. I thought you were going to stop?

MR [illegible] Yes, the torn shirtwaist and garments -- Q. Will you please tell me the time when the torn shirtwaist and garments got into the pockets of your automobile?

A. About seven o'clock.

Q. About seven o'clock?

A. Yes, I should judge about that.

Q. How did they get into the pockets of your automobile?

A. I placed them there.

Q. And where did you get them from? A. Room 1227.

Q. Were you in room 1227 about 7 o'clock?

A. I suppose I was.

Q. Were you or were you not? A. I must have been.

Q. Didn't you testify here Mr Semmacher, only a few moments ago, that you went down to the Palace Hotel--that you got your belongings at the Palace Hotel, that they were sent up to room 1227, that Miss Provost went to room (presumably 1228); and that you went to 1228?

A. Later.

Q. And that you didn't leave there until 6 or 6:30 o'clock and that you visited room 1227 merely to find out how Miss Provost was, and didn't do anything else? Didn't you so testify?

A. I suppose I did.

Q. Was your testimony true? A. What do you mean by "true"?

(Question referred to read by the reporter)

MR GOLDEN: I am not answering questions.

THE MISTRESS: I am not asking you to answer questions.

MR GOLDEN: Q. I am asking you if you so testified; didn't you?

A. I don't remember what I stated a few seconds ago.

Q. You don't remember? A. A few minutes ago--my exact wording I couldn't tell you.

Q. I am not asking for the exact words, Mr Bernacher, -- I am only asking you, you have said as to the substance or effect -- you have testified as I have related to you, haven't you?

THE COURT: It stands in the record, Mr. District Attorney. What is the use of insisting on the witness certifying to something that is already in the record?

MR GOLDEN: Q. Now, Mr. Bernacher, you took those torn garments with you in your automobile to Los Angeles? A. Yes, sir.

Q. You took them in the pocket of your automobile?

A. You mean by those garments the drawers and the shirtwaist?

Q. I am speaking of the torn garments. A. Yes, sir.

Q. Those are the only two garments belonging to Miss Hargo, those two garments that you took? A. Yes, sir.

Q. Those were the only two garments that were torn outside of the stockings? A. Yes, sir.

Q. The stockings you didn't find and did not see when you came back into this? A. I don't know what became of them.

Q. And you took them in your car to Los Angeles? --Correct?

A. Yes, sir.

Q. You left for Los Angeles when?

A. September 6th, about 1:30.

Q. And you say that you took the garments with you? A. I do.

Q. For the purpose of showing them to Miss [illegible]

THE COURT: Q. 1:30 in the morning or afternoon?

A. P. M.

MR. [illegible]: Afternoon. Q. And you say you took the garments with you in the pockets of your automobile for the purpose of showing them to Miss Kappe to josh her about her condition; is that right?

A. Yes, sir.

Q. And was that the only purpose that you had in taking those garments with you? A. Positively.

Q. And there wasn't any other reason for taking the garments with you? A. There couldn't be any.

Q. Do you recall now whether you testified or stated to anybody that you took those garments with you for the purpose of dusting off your automobile? A. Yes, I was going to use them later, after showing them to Miss Kappe, to dust off my machine, as they were absolutely useless.

Q. Then you took them for two purposes, is that right, one purpose was to dust off the automobile, and the other purpose was to show them to Miss Kappe; is that right?

A. Just reverse that.

Q. Well you mean that [illegible] purpose was more important than the other? A. Yes, sir, absolutely.

Q. The exhibition purpose was more important than the cleaning purpose? A. Yes, sir.

Q. Now did you use either of those garments at all for the purpose of cleaning your machine? A. I did not.

Q. You did not? A. Never.

Q. Was your machine clean or not clean when it got home?

A. It certainly was dirty.

Q. But you didn't use it for any purpose of cleaning?

A. No, I had the car cleaned.

Q. When you got home you put the car in your own garage?

A. Yes, sir.

Q. You have a garage in your own home? A. Yes, sir.

Q. And what became of the shirtwaist and the drawers?

A. I took them into my home together with my own belongings -- my own belongings and these torn garments were in the same pocket of the car.

Q. And you put the torn garments with your own belongings in the drawer in your home, is that correct? A. Yes, sir.

Q. The drawer was in a bureau?--Right? A. Yes, sir.

Q. And were they wrapped in a newspaper or any paper?

A. No paper at all.

Q. Were they ever wrapped in a paper?

A. Only when I took them down from room 1511 together with my belongings.

Q. They were wrapped in a paper? A. Yes, sir.

Q. Do you know what day it was when you took the garments--the torn garments from 1511 -- was it Tuesday or Monday? A. Monday.

Q. And how long did the torn garments remain in the bureau, or the drawer of your bureau?

A. Until I showed to my home on September 11th instructing my son to deliver them to the officials of the Los Angeles police department.

[illegible]

[illegible] when it got home?

[illegible]

[illegible] of cleaning?

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] you put the torn garments with your own belongings in the [illegible] in your home, is that correct? A. Yes, sir.

[illegible] Yes, sir.

[illegible] were they wrapped in a newspaper or any paper?

[illegible]

[illegible]

[illegible] when I took them down from room 112 together with my [illegible]

[illegible]

[illegible] show what day it was when you took the garments--the [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

Q. That was done at the request of Mr. O'Brien was it not?

A. At my own request.

Q. That was done at the request of Mr. O'Brien?

A. At my own request.

Q. Didn't he tell you to do it? A. No, not at that time; I suggested it because I knew--

THE COURT: Did you want to add something?

THE WITNESS: I knew somebody was home there.

Q. [illegible]; what day was it that you telephoned down-- whether at your own volition or that of Mr. O'Brien, for the torn shirtwaist and the garments? A. September 10th, or very early in the morning of the 11th.

Q. You arrived in Los Angeles with the torn garments on what day?

A. Wednesday the 7th.

Q. What time--in the morning or the afternoon?

A. About 7:30 or 8 P.M.

Q. So that the torn shirtwaist and the torn drawers remained in the bureau in your bedroom from Wednesday night around eight o'clock until some time about the 11th of September, 1911; is that right?

A. Yes.

Q. Approximately four days--right? A. No, sir.

Q. How many days? A. Three days.

Q. They remained Wednesday night at 8:00 until you telephoned-- A. I telephoned Saturday night, 11 or later.

Q. And you telephoned from what place?

A. Captain Matheson's office.

Q. Mr. O'Brien was there at the time? A. Yes, sir.

Q. Mr. O'Hon had asked you hadn't he, what had become of the torn shirtwaist? A. Yes, sir.

Q. And he asked you what had become of the torn shirtwaist and the torn drawers? A. Yes, sir. And I told him where they were and I said I would telephone to my son to deliver them to the police at Los Angeles.

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(Further proceedings were had herein at this time until tomorrow, Saturday, September 26th, 1931, at 10:30 o'clock A.M.)

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IN THE POLICE COURT OF THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, DEPARTMENT NO. 2.

Honorable Sylvain J. Lazarus, Judge.

THE PEOPLE OF THE STATE OF CALIFORNIA)
)
vs.) MURDER.
)
ROSCOE ARBUCKLE.)

SATURDAY, SEPTEMBER 24th, 1921.

10:30 A.M.

AL SEMNACHER (Testimony resumed)

MR GLYNN: Q Mr Semnacher, on the way from Los Angeles to San Francisco - on the trip on which Mrs. Delmont and Miss Rappe accompanied you, was Virginia Rappe in healthy condition?

A. To my knowledge.

Q. As far as you know, she was enjoying the best of health?

A. Yes, sir.

Q. And as far as you know she continued to enjoy the best of health?

A. Yes, sir.

Q. Until you saw her lying on the bed in a weak condition as you stated yesterday? A. Yes, sir.

Q. At any time that you observed Miss Rappe in Mr. Arbuckle's apartments, did you ever see her let her hair down and shake her head, with her hair hanging down? A. No, sir.

[illegible] OF SAN FRANCISCO, STATE

[illegible], [illegible] No. 2.

[illegible], Judge.

[illegible]

[illegible]

10:30 A.M.

AL [illegible] (Testimony resumed)

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] now who's stinged to enjoy the best of health?

[illegible]

[illegible]

[illegible] A. Yes, sir.

[illegible]

[illegible] A. No, sir.

Q. Did you ever see her in Arbuckle's apartments standing in the doorway connecting any of the rooms, letting her hair down and sailing out to Mr. Arbuckle to observe her?

A. No, sir.

Q. Or say, "Look here, Rossy," or "Roscoe"?

A. No, sir.

Q. When was it that you came to San Francisco from Los Angeles with Mr. Arbuckle, if you did come, subsequent to this party that we have been talking about?

A. Left Los Angeles Saturday morning at -- September 10th at 8:30.

Q. And what time did you get to San Francisco?

A. About 9 o'clock that night, between nine and ten.

Q. Between 9 and 10 Saturday night?

A Saturday night.

Q. That is you got to San Francisco Saturday night between 9 and 10 o'clock, September 10th? A. September 10th.

Q. From what point in Los Angeles did you leave?

A. Hollywood.

Q. Do you live at Hollywood? A. Yes, sir.

Q. I mean you left Hollywood to go direct to Los Angeles - to go direct to San Francisco? A. Yes, sir.

Q.. You left your house at Hollywood?

A. No, I left Hollywood at 8:30 in the morning.

Q. Well, from what place in Hollywood?

A. Highland Avenue and Hollywood Boulevard.

Q. Who lives there?

A. I don't know of anyone that lives there. My house is about

four blocks distant.

Q. Well, did you meet the people whom you accompanied on that trip--that second trip to San Francisco? A. Yes, sir.

Q. Was that by previous arrangement? A. Yes, sir.

Q. With whom did you make those arrangements?

A. With everyone in the party.

Q. Who is "everyone"?

A. Mr. Arbuckle, Mr. Sherman and Mr. Fishback.

Q. And it was arranged between the gentlemen whose names you have just mentioned and yourself you were to meet them on the street corner about four blocks distant from Hollywood--four blocks distant from your house in Hollywood? A. Yes, sir.

Q. When you left at that point in Hollywood, did anyone else leave at the same time? A. Yes, sir.

Q. Who else left?

A. Mr. Enger, Mr. Dominguez and Mr. Arbuckle's chauffeur.

Q. Then as I understand, an arrangement was entered into between all of you to meet at that point four blocks distant from your house in Hollywood and from there to proceed directly to San Francisco?

A. Not all of us. I did not know that Mr. Enger or the other gentlemen were going.

Q. You didn't know that Mr. Dominguez was going to go along with the party? A. No, sir.

Q. Where were you when it was arranged between you and Mr. Arbuckle and Mr. Sherman and Mr. Fishback that they were to meet you at this place in Hollywood four blocks from your house?

[illegible]

[illegible]

[illegible]

[illegible] A. Yes, sir.

[illegible] A. Yes, sir.

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] A. Yes, sir.

[illegible]

[illegible] A. Yes, sir.

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] A. No, sir.

[illegible]

[illegible] that they were to meet you at this [illegible] your house?

A. At Grauman's theatre in Los Angeles.

Q. How long before you met at 8:30 was it that you made the arrangements to meet at that corner? A. About 11:30.

Q. As I understand it, Friday night, September 9th, 11:30 at night, the arrangements to meet at that street corner were made, between you and the others you mentioned in the office of Grauman's theatre in Los Angeles? A. Yes, sir.

Q. When you made those arrangements to meet under those circumstances, where did you go? A. I went home.

Q. And did you stay home from 11:30 until 8:30?

A. No, sir, until about half past 12 -- the intention was to leave about 1 o'clock, but I waited there until 8:30.

Q. You waited on the corner from 1 o'clock?

A. Yes, sir, and in a restaurant.

Q. And in a restaurant there; is that right?

A. Yes, sir.

Q. Mr. Arbuckel, Mr Sherman, Mr. Fishback, all came together did they? A. In two automobiles.

Q. In two different automobiles?

A. With Mr. Dominguez and Mr. Anger and Mr. Arbuckle's chauffeur.

Q. Where did you have your dinner on the evening of September 9th?

A. At home.

Q. Did you have any business that took you out of your house on the evening of September 9th?

A. None at all--just to go to a theatre.

Q. You had business to go to Grauman's theatre?

A. Not business -- pleasure.

Q. You went to see a show, did you? A. Yes, sir.

Q. What was the play? A. I don't remember the name of it.

Q. Did you see it? A. Yes, I saw it.

Q. What time did you go to Grauman's theatre?

A. About seven thirty.

Q. Anyone go with you? A. My niece.

Q. What is her name, please? A. Wilma Moritz.

Q. She left the house with you to go to Grauman's?

A. Yes, sir.

Q. You left at 7:30; that is correct?

A. Yes, I got there between 7:30 and 8 o'clock.

Q. And did you go in and see the play, you and your niece?

A. Yes, sir.

Q. Before you went in to see the play did you talk to anyone at Grauman's theatre? A. No, sir.

Q. You went right in? A. Went right in.

Q. Did you see the entire performance? A. Yes, sir.

Q. Besides the chief attraction, what other things did you see at Grauman's theatre?

A. A young lady dancing--you mean on the stage?

Q. Yes. A. A young lady dancing--some prologue to the play.

Q. Do you know what the prologue was?

A. It was, I believe, a prologue to Mr. Arbuckle's picture?

Q. Was one of Mr. Arbuckle's photo plays on exhibition that night?

A. Yes, sir.

Q. Now when was that show over?

A. I should think about 10 or 10:30.

Q. What is it? A. Between 10 and 10:30.

Q. Did anyone come in to talk to you during the time you and your niece were in the theatre?

A. While I was watching the show?

Q. Watching the performance, yes, sir.

A. No, sir, no one.

Q. When the play was over, did you and your niece leave the theatre?

A. No, sir.

Q. Where did you and she go?

A. Went up to see a young lady that had performed on the stage.

Q. Where was that that you went?

A. Up in the ante room to Mr. Grauman's office.

Q. Into what? A. Anteroom to Mr. Grauman's office.

Q. How did you know she was there?

A. I knew where she would be.

Q. How did you know that?

A. From what she had told me the day before.

Q. Who was this young lady? A. A miss Harris.

Q. What is her first name, please? A. Mildred.

Q. Did you make an appointment to meet Miss Mildred Harris at Mr. Grauman's office? A. No appointment.

Q. Did you make an appointment to meet Miss Harris at Mr. Grauman's office the day before?

A. No, sir, no appointment whatsoever.

Q. She merely told you she was going to be at Mr. Grauman's office?

A. Yes, and I said I might be there.

Q. And did she tell you what time she would be there?

A. No; but I knew she had two performances to go through with.

Q. Did your niece accompany you to Mr. Truman's office?

A. Yes, sir.

Q. And when you got in Mr. Truman's office, who did you see?

A. Miss Harris and her mother, and I believe her cousin--one or two cousins, and several other people there. This is in the anteroom to the office.

Q. Did you speak to Miss Harris there? A. Yes, sir.

Q. Anyone else did you speak to in the anteroom?

A. I suppose everybody there.

Q. Can't remember the names of the other people?

A. No-- Miss Harris' mother and I believe one or two cousins, and maybe her secretary.

Q. After you got through talking to Miss Harris, what did you do?

A. I accompanied her to the back of the stage when she went through her other performance.

Q. Was there another performance after 10:30 at night?

A. Yes, sir.

Q. Given by Miss Harris? A. Miss Harris, yes.

Q. You say you accompanied her from the anteroom to the back of the stage? A. Yes, sir.

Q. Now when was the other performance through -- I mean the other performance of Miss Harris?

A. Oh, in about ten minutes.

Q. Well, what time was it she was through with the other performance?

A. I should judge around -- between 10:30 and 11.

Q. And did you wait on the stage while Miss Harris was giving her performance? A. Yes, sir.

Q. And your niece was with you? A. Yes, sir.

Q. And when the performance of Miss Harris was through, then where did you go? A. Up to the anteroom.

Q. Back to the anteroom? A. Yes, sir.

Q. Was this business association, or purely social?

A. Social.

Q. And did your niece accompany you back to the anteroom?

A. Yes, sir.

Q. At what time did you and your niece and Miss Harris go back to the anteroom? A. It must have been 11 o'clock.

Q. And who did you see in the anteroom when you got back about 11 o'clock? A. The same people -- Miss Harris' relatives and friends.

Q. Did you see anyone else? A. No, not at that time.

Q. Well, what did you do there in the anteroom? A. Talked.

Q. Anything else? A. No -- smoked.

Q. How long did you stay there in the anteroom with Miss Harris and your niece and Miss Harris' mother?

A. About twenty minutes.

Q. And then where did you go?

A. Then I met -- Just as I was about to leave, I met Mr. Fishback in the hall.

Q. Which hall?

A. To the entrance to Mr. Truman's office and the anteroom.

Q. Was anyone with Mr. Fishbeck at the time you met him?

A. No, sir.

Q. Was your niece with you and was Miss Harris with you, and Miss Harris' mother with you when you met Mr.Fishbeck?

A. My niece was.

Q. Where was Miss Harris and Mrs. Harris?

A. They were in the anteroom.

Q. And you say, as I understand -- that you met Mr. Fishbeck, you and your niece did, about 11:20 at night?

A. Yes, between 11 and 11:20.

Q. Without telling us about what it was, because that is hearsay -- did you have a talk with Mr. Fishbeck when you met him?

A. Yes, sir.

MR [illegible]: There is no objection to his telling it.

MR [illegible]: Did you talk there with Mr. Fishbeck?

A. About two minutes.

Q. And then where did you go?

A. Entered the office of Grauman's theatre.

Q. With Mr. Fishbeck? A. With Mr. Fishbeck.

Q. Did your niece accompany you? A. No, sir.

Q. Where did she remain?

A. I sent her back to the anteroom.

Q. When you got into Mr. Grauman's office, did you see anyone there?

A. Mr. Arbuckle, Mr. Sherman, Mr. Grauman, and some newspaper man.

Q. And how long did you remain with Mr. Sherman, Mr. Arbuckle, Mr. Grauman and some newspaper man in Mr. Grauman's private office?

A. Until I left for home.

Q. How long was that?

A. Could have been a half an hour or three quarters of an hour.

Q. Then you left for home around 10 o'clock at night?

A. Yes, sir; I think it was a little before; I am not certain of the time.

Q. Did you go home alone?

A. Yes -- with my niece.

Q. And what became of Mr. Arbuckle and Mr. Fishback and Mr. Sherman?

A. I presume they went home. They packed their grips.

Q? You don't know where they went? A. No.

Q. At any rate during the time you were there in conference in Mr. Grauman's private office, it was determined you should all go to San Francisco; is that correct? A. Yes, sir.

Q. And your visit to San Francisco was in connection with the so-called Arbuckle case; is that correct?

A. No; my connection with the Arbuckle case was on September 5th.

Q. No. I say that the trip that was then arranged to go to San Francisco by all of you was in connection with the Arbuckle case?

A. Yes, I see what you aregetting at.

Q. Did any attorney come into the conference in Mr. Grauman's office while you were there ? A. No, sir.

Q. Now what was said, if anything, in the presence of Mr. Arbuckle, with reference to the death of Miss Rappe while you were all in Grauman's office?

A. That was when I first ascertained that Miss Rappe had died.

Q. I say, what was said about it in the presence of Mr. Arbuckle?

A. We thought it a very unfortunate accident, and didn't see how it came about.

Q. Anything else? A. Suggestion was made to and as what to do -- whether to go up to San Francisco immediately, or to wait in Los Angeles.

Q. Anything else? A. Thereupon Mr. Arbuckle phoned to the chief of police in San Francisco asking if he should come here.

Q. Yes?

A. And from the answer at this end, and Mr. Arbuckle's and our future actions, I judged we were requested to return here.

Q. Did Mr. Arbuckle state that he had been in room 1219 with Miss Rappe for any length of time, alone?

A. Not to me.

Q. Did he state that in your presence? A. No, sir.

Q. Did you hear him say anything of that sort?

A. No, sir, that wasn't mentioned at that time. We were just discussing Miss Rappe's death.

Q. Did he ever mention to you at any time that he had been in room 1219 alone with Miss Rappe? A. No, sir.

Q. When it was said in his presence that it was an unfortunate affair, and that you all didn't see how this death came about, did either Mr. Fickert or you or Mr. Sherman say to Mr. Arbuckle, "What took place in the room when you and who were in 1219?"

A. No, sir.

Q. Nothing of that kind was mentioned?

A. No, sir, the rooms were not discussed at that time at all, or any future time.

Q. And the fact, if it be a fact, that Mr. Arbuckle was in room 1219 with Miss Bayne during the afternoon of September 5th, 1921, at the St. Francis Hotel, San Francisco, wasn't even mentioned?

A. No, sir.

Q. Is That right? A. Absolutely.

Q. Wasn't mentioned by Mr. Arbuckle or by Mr. Fishback or Mr. Sherman? A. No, sir.

Q. Will you explain how it was or why it was that Mr. Arbuckle took upon himself the burden of inquiring whether he was wanted in San Francisco?

A. From the remarks made by the newspaper reporter that was there.

Q. Remarks made by the newspaper reporter to him and in his presence? A. Yes, sir.

Q. What were those remarks?

A. I don't know all of them because I did not enter the room for quite some time after Mr. Arbuckle, Mr. Fishback and Mr. Sherman were there.

Q. Did you hear the newspaper man who exhibited this article to Mr. Arbuckle say anything to him at all during the time that you were in Mr. Grauman's office?

A. He asked for a statement.

Q. Besides asking for a statement did he say anything else to Mr. Arbuckle? A. Not that I know of.

Q. Did you hear the newspaper man ask Mr. Arbuckle whether it was true that he, Mr. Arbuckle, had been with Miss Bayne alone in room 1219?

A. No, because he left very shortly after I entered that room.

Q. Who left? A. The newspaper reporter.

Q. Well, besides asking Mr. Arbuckle for a statement, is there any other single thing that you can recall that the newspaper man had to say? A. No, sir.

Q. Did Mr. Arbuckle make a statement?

A. Not in my hearing.

Q. When the newspaper man asked Mr. Arbuckle to make a statement what did Mr. Arbuckle say? A. I don't know.

Q. Did he say anything? A. He might have.

Q. Did he? A. I don't know.

Q. Do you mean to say you have forgotten?

A. No, I mean to say that I was worried about Miss Rappe's death. That was the principal consideration.

Q. Well, of course you were worried about Miss Rappe's death and you felt some responsibility for it, no doubt, yourself -- You heard the newspaper man ask Mr. Arbuckle for a statement; you remember that distinctly?

A. Yes, sir.

Q. Now then, didn't your anxiety relative to Miss Rappe's death cause you to listen to see what Mr. Arbuckle had to say on the subject?

A. There were five men in that room, or maybe six, and they were all talking.

Q. Listen to the question, Mr. Semnacher. Repeat it, Mr. Reporter, please.

(Question referred to read by the reporter)

A. To a certain extent, naturally.

Q. To what extent?

A. That I can not tell you; I don't remember.

Q. Can you tell us anything at all that Mr. Arbuckle said on that subject, on the cause of Miss Rappe's death?

A. Just as I said before, he expressed regret at Miss Rappe's death.

Q. Is that all the statement he made?

A. That is all that I can remember.

Q. Now you rode up from Los Angeles to San Francisco in whose car?

A. Mr. Fishback's.

Q. And who were in the same car? A. Mr. Sherman.

Q. The three of you? A. The three of us.

Q. You, Sherman and Fishback? A. Yes, sir.

Q. Who drove the car? A. Mr. Fishback and I.

Q. Then you two occupied the front seat?

A. No, not all the time.

Q. Well part of the time you did and part of the time you were in the back seat alone; is that right? A. Yes, sir.

Q. Now as you were driving up from Los Angeles to San Francisco -- well, that would be hearsay, too.

MR DOMINGUEZ: We will waive it. Ask it.

MR [illegible]: Was anything said between the three of you with respect to Mr. Arbuckle having been in room 1219 alone with Miss Rappe?

A. No, sir, not regarding Room 1219 at all.

Q. Or with regard to any room?

A. No, sir, no rooms.

Q. The rooms weren't mentioned? A. No, sir.

Q. And the fact, if it be a fact, that Mr. Arbuckle was in a room with Miss Rappe at any time during that time, wasn't even mentioned or broached; is that correct?

A. Correct. Most of my time was occupied in sleeping.

Q. What? A. Sleeping.

Q. Well you did talk, however, to the two men?

A. Naturally.

Q. And what was said? A. We discussed the case--

MR. [illegible]: Now counsel. This line of inquiry is being pursued simply as the result of counsel not objecting to it. And I think in fairness to the court and in consideration of the saving of time, that some limitation should be made.

MR. [illegible]: Counsel invited me to approach it. I don't care to approach it any further.

MR. [illegible]: Just simply as to the point, your Honor, I am not afraid of anything this man can say. All that is the rankest hearsay and I object to it on that ground.

THE COURT: I realize on legal grounds an objection would have been sustained.

MR. [illegible]: Now before you got to San Francisco on your trip from Los Angeles, did you talk to Mr. Arbuckle?

A. I believe at Bakersfield, where we had breakfast.

Q. Well, the party all had breakfast together at Bakersfield?

A. Yes, sir.

Q. And who were present at breakfast at Bakersfield?

A. The seven people that I mentioned before -- the six people.

Q. What six people?

A. Mr Arbuckle, Mr. [illegible], Mr. [illegible], Mr. [illegible], Mr. [illegible] and myself.

Q. All had breakfast at the same table? A. Yes, sir.

Q. How long were you at breakfast?

A. Twenty minutes to a half an hour.

Q. Was the Arbuckle affair -- or Miss Rappe's death discussed at the table? A. Exceedingly little -- nothing was said -- we all wanted to get away.

Q. Was it discussed at all?

A. I don't think it was, to any extent.

Q. Wasn't even mentioned?

a. It might have been, but I can not remember.

Q. Well, now, Mr. Semnacher, those of you who had been present at the party, accompanied by their eminent attorney, were coming up from Los Angeles in connection with the death of Miss Rappe; that is true? A. Yes, sir.

Q. And you were all at breakfast together?

A. Yes, sir.

Q. And do you mean to say it is correct that the subject of Miss Rappe's death wasn't even mentioned at that breakfast during the course of that half hour?

A. I don't think it was.

Q. Well now, when you say you don't think it was, do you mean to say it was not, or if it was, that you have forgotten?

A. Yes, put it that I have forgotten.

Q. I don't want to put it Mr. Semmacher. I want you to put it.

A. Then I have forgotten.

Q. Then as a matter of fact the subject of Miss Rappe's death was discussed at the breakfast table?

A. I don't remember.

Q. Don't even remember even hearing her name mentioned at that breakfast table? A. It could have been.

Q. But you don't even remember it?

A. No, I don't.

Q. You don't remember whether or not the fact, if it be a fact, that Mr. Arbuckle had ever been in a room alone with Miss Rappe in these apartments at the St. Francis Hotel on Labor Day was even mentioned?

A. Would you read that question again, Mr. Gallagher, please?

(Last question read by the reporter)

MR DOMINGUEZ: At that time and place?

MR GOLDEN: Yes, at the breakfast table.

A. That I know positively, that was not mentioned -- very little was said at the table.

Q. Now, Mr. Semmacher, you were coming to San Francisco with all possible dispatch? A. Yes, sir.

Q. You were anxious to get here in a hurry?

A. Yes, sir.

Q. To do that you all drove all night long? A. Yes, sir.

Q. You stopped merely for the purpose of having breakfast?

A. Yes, sir.

Q. According to your statements, the subject of Miss Hoppe's death wasn't even mentioned between any of you?

A. I didn't state that. I stated just a few moments ago, coming up, Mr. Sherman and I, and Mr. Fishback, naturally talked about her death.

Q. You talked about the fact that she had died?

A. Yes, sir.

Q. But you didn't discuss the cause of her death or the possible cause of her death?

A. We didn't know what the cause was.

Q. I say you didn't discuss it?

A. We tried to fathom the cause.

Q. You tried to fathom the cause? A. Yes, sir.

Q. I am not going to pursue the inquiry as to what was said between you and Mr. Fishback and Mr. Sherman, because the court does not want it, and it is hearsay -- but at the breakfast table were you trying to fathom the cause of Miss Hoppe's death?

A. No, sir.

Q. You had stopped trying to fathom the cause of it; is that right?

A. Yes, sir.

Q. And there wasn't the slightest curiosity at all displayed by anyone, even by our learned friend, Mr. Dominguez, who was coming up here as Mr. Urbuckle's attorney -- to protect his interest -- to find out what it was that caused this girl's death in that room is that right?

A. Mr. Dominguez was very uncommunicative.

(Last question and answer read by the reporter.

MR GOLDEN: That isn't an answer, Mr. Donnacher. It is an explanation. We want an answer.

A. I didn't get that question. May I have it again, Mr. Gallagher?

(Question referred to read by the reporter

A. Not at the breakfast table.

Q. At any place?

A. Only between Mr. Sherman, Mr. Fisher and myself.

Q. I am now speaking now, with reference to the time when you were all there at the breakfast table?

A. No, sir.

Q. Didn't Mr. Dominguez ask any questions of any of you as to what you knew about the affair? A. Not of me.

Q. Nor of anyone in your presence? A. No, sir.

Q. He preserved stolid and complete silence on the subject?

A. Absolutely.

Q. And had not the slightest curiosity at all relative to the facts of the case?

A. He hasn't even asked me a question.

Q. Was there anything said at the table there with respect to now one saying anything about the case?

A. No, sir. I believe I did ask Mr. Dominguez a question. I asked him, I believe, what course of procedure I should follow, and he told me to do as I pleased.

Q. You remember that, do you?

A. Yes, that I remember. That was coming out of the restaurant.

Q. Now what time did you get to San Francisco?

A. About nine o'clock that night.

Q. And did you see Mr. Arbuckle after you got to San Francisco at nine o'clock at night?

A. I think I saw him about half past ten, or eleven o'clock.

Q. That night? A. That night.

Q. Where?

A. Down in one of the attorneys' rooms, I believe.

Q. Here at this hall of Justice? A. Yes, sir.

Q. Captain Matheson's office?

A. No, sir. I was there -- across the hall.

Q. Did you talk to Mr. Arbuckle? A. No, sir.

Q. Not a word?

A. "How do you do?" That is about all.

Q. That is all? A. That is all.

Q. Have you talked to Mr. Arbuckle since the time that you saw him here that night at half past ten o'clock?

A. No, sir.

Q. Following the party of September 5th did you see Mr. Arbuckle in San Francisco the next day, September 6th? A. Yes, sir.

Q. Where was it?

A. In room 1220?

Q. What time? A. Somewhere between 10 and 11 o'clock.

Q. In the morning? A. In the morning.

Q. September 6, 1921? A. September 6th.

Q. That is Tuesday? A. Tuesday.

Q. Who were present when you saw Mr. Arbuckle in his room there at that time?

A. Mr. Fishback, Mr. Sherman, Mr. Arbuckle -- Mr. Arbuckle's chauffeur and myself.

[illegible]

[illegible] Mr. Arbuckle after you got to San Francisco [illegible]

[illegible]

[illegible] A. That [illegible].

[illegible]

[illegible] of the attorneys' [illegible]

[illegible] A. Yes, sir.

[illegible]

[illegible]

[illegible] Mr. Arbuckle? [illegible], sir.

[illegible]

[illegible] That is about all.

[illegible] A. That is all.

[illegible]

[illegible]

[illegible]

[illegible] next day, September 6th? A. Yes, sir.

[illegible]

[illegible]

[illegible] A. Somewhere between 10 and 12 o'clock.

[illegible] A. In the morning.

[illegible] September 6th.

[illegible] A. Tuesday.

[illegible] saw Mr. Arbuckle in his room there [illegible]

[illegible] Mr. Arbuckle -- Mr. Arbuckle's [illegible]

Q. Is the chauffeur's name McCullough?

A. I believe it is Harry McCullough.

Q. Did Mr. Arbuckle say anything in your presence and hearing in reference to anything that he had done to Miss Rappe on the day before in this apartments?

A. We were talking about her intoxicated condition.

MR GOLDEN: I move to strike out the answer as not responsive.

THE COURT: It is so ordered.

MR GOLDEN: Read the question, Mr. Reporter, and listen to it, Mr. Semnacher.

(Last question read by the reporter)

MR DENISSEN: Therewas this conversation supposed to be?

MR GOLDEN: Taking place in his room, I said between the hour of 10 o'clock and 12 o'clock noon September 5th, in the presence of Mr. Fishbeck, the chauffeur and Mr. Sherman -- Mr. Arbuckle being present and in the presence of the witness.

(The last question and the statement by Mr. Golden read by the reporter)

A. Yes, sir.

Q. What did Mr. Arbuckle say?

A. He made the remark that he had placed a piece of ice in Miss Rappe.

Q. In Miss Rappe? A. In Miss Rappe.

Q. In where, please? A. In the vagina.

Q. Well, give us the exact language as near you can recall, that Mr. Arbuckle stated.

A. Judge, may I ask you a question?

THE COURT: You wish to ask what?

THE WITNESS: I don't want to use the exact word.

MR O'NEIL: I think the exact word is proper. You needn't to say it, but just for the reporter, the court and counsel.

A. The word is "snatch".

MR JOLLEY: Q. Did Mr. Arbuckle say anything else at that time?

A. We were all discussing her supposedly intoxicated condition.

Q. Well, with respect to what he had done to Miss Rappe -- we are not now questioning you on the subject of Miss Rappe's supposedly intoxicated condition -- I am asking you with reference to anything else that Mr. Arbuckle said as to what he had done to Miss Rappe in that room?

A. No; that is all that he mentioned.

Q. Did anyone ask him why he had done that?

A. No, sir.

Q. Did he explain why he had put ice in her vagina?

A. No, sir.

Q. No explanation at all was made by anybody?

A. None was asked.

Q. None was asked? A. Not to my knowledge.

Q. Well what did you say in the presence of Mr. Arbuckle when he stated what he had done with this piece of ice?

A. Nothing.

Q. What did Mr. Fishback say?

A. There was laughter -- everyone laughed.

[illegible] Judge, may I ask you a question?

[illegible]: You wish to ask what?

[illegible]: I don't want to use the exact word.

[illegible]: I think the exact word is [illegible]. You needn't to say it, but just for the reporter, the court and counsel.

[illegible]. The word is "[illegible]".

[illegible]: [illegible] Mr. [illegible] say anything else at that time?

[illegible]. We were all discussing her supposedly intoxicated condition.

[illegible]. Well, with [illegible] to what he had done to Miss Happe, -- we are not [illegible] the subject of Miss [illegible]'s supposedly intoxicated condition -- I am asking you with reference to anything else that Mr. [illegible] said as to what he [illegible] to Miss [illegible] in that room.

[illegible]. Yes; that is all that he mentioned.

[illegible]. Did anyone ask him why he had done that?

[illegible]. No, sir.

[illegible]. Did [illegible] he had [illegible] in his [illegible]?

[illegible]. No, sir.

[illegible]. [illegible] at all was made by anybody?

[illegible]. None was asked.

[illegible]. [illegible] was asked? [illegible]. Not to my knowledge.

[illegible]. Tell what did you say in the presence of Mr. [illegible] when he stated what he had done with this piece of ice?

[illegible]. [illegible]

[illegible]. What did Mr. Fishback say?

[illegible]. There was laughter -- everyone laughed.

Q. Nothing was said, but everybody laughed when he made that statement; is that right? A. Yes.

Q. Did you laugh? A. I might have.

Q. Did you?

A. I can not state positively whether I did or not.

Q. Don't you remember whether you joined in this general laughter?

A. I don't remember.

Q. But the others all did laugh?

A. Some laughed; I don't know if they all laughed. I couldn't pick out any individual that laughed.

Q. It was a general chorus of laughter?

A. Yes, because the party had all been discussed and everyone connected with it.

Q. There was a general chorus of laughter when Mr. Arbuckle explained what he had done with this piece of ice, that he had put this piece of ice in Miss Rappe's vagina?

A. What do you mean by "chorus"?

Q. Everyone joined in? A. I don't know.

Q. Did they laugh separately or laugh together?

A. That I don't know.

Q. But whether they laughed separately or laughed together, they all did laugh? A. There was laughter.

Q. Did you express any remonstrance or horror against anything of this kind? A. No, sir, I did not.

Q. Did anybody do that? A. Not to my knowledge.

Q. Did Mr. Arbuckle state who was present, if anyone, when he put this piece of ice into her vagina?

A. No, sir.

Q. Did anybody ask him?

A. No, no one asked.

Q. Did anyone ask him where it was that he did this thing-- in what room? A. No.

Q. Well, can you explain how it was -- why it was Mr. Arbuckle made this statement?

MR DOMINICK: That is objected to on the ground it is calling for the conclusion of this witness.

MR GOLDEN: Very well. You are right.

Q. Was anything said immediately preceding the statement -- this statement of Mr. Arbuckle?

A. Preceding or succeeding?

Q. Preceding? A. No, we had been discussing the different people that were at the party.

Q. Can you remember the thing that was said immediately preceding --

A. (Interrupting) No, sir.

Q. (Continuing) --this statement of Mr. Arbuckle?

A. No, sir.

Q. Did Mr. Arbuckle ever make any explanation to you as to why it was he had done this thing? A. No, sir.

Q. Did he ever explain to you at any time who were present at the time this thing was done? A. No, sir.

Q. Or at what place in these apartments this thing was done?

MR DOMINICK: Just a minute. That is assuming something not in evidence. He did not make the statement that it had been done in any of the apartments -- nor when it was. Please don't

put that in his testimony.

MR [illegible]: The witness has testified that they were discussing Miss Rappe's condition atthe party.

MR DOMINGUEZ: Just ask him if he said that. I am willing to have you ask him that.

MR [illegible]: Mr. Semmacher, this conversation was all part of a conversation -- this statement was all part of a conversation relative to what had happened in those rooms the day before?

A. Yes, sir.

Q. And it was in connection with that general subject matter that Mr. Arbuckle made that statement?

A. Yes, sir.

Q. And the ice was put into Miss Rappe's vagina in those rooms?

A. That I don't know.

MR DOMINGUEZ: Just a minute -- all right.

MR [illegible]: Please don't talk quite so fast, Mr. Semmacher.

MR [illegible]: Mr Arbuckle didn't tell you he had done this thing to Miss Rappe at some time previous?

MR DOMINGUEZ: The witness has already testified to what Mr. Arbuckle said; and he further stated that Arbuckle had said nothing further.

THE COURT: This is virtually cross examination -- it is cross examination in fact -- and I will allow the question.

MR DOMINGUEZ: Well, if your Honor please, cross examination of that sort might go on forever. Might ask him if he has not put it somewhere else -- in Africa.

THE COURT: Of course there is a limit, and I will call a halt

when that time comes, without any suggestion, really, because this is evidently a matter of trying to extract evidence from a most unwilling witness. The District Attorney is labouring under a great difficulty and great disadvantage.

MR GOLDEN: Q Mr. Arbuckle didn't say that he had done this thing to Miss Rappe at some place other than those apartments?

A. No, sir.

Q. And you were discussing at the time, the events that took place in those apartments the day before?

A. Yes, sir.

THE COURT: What is the necessity of going any further, Mr. District Attorney? This is a matter submitted to my intelligence, is it not? -- and I can form my own conclusion from the questions and answers.

MR GOLDEN: I won't apologize. I was gauging the court's intelligence by Mr. Dominguez'.

MR DOMINGUEZ: Good for Mr. Dominguez.

THE COURT: Unless you have some other reason for trying to get a more definite expression.

MR GOLDEN: No, your Honor. It is perfectly plain.

Q. Now, when you were discussing, or talking about Miss Rappe's death in the office of Grauman's theatre, did you mention the fact in Mr. Arbuckle's presence that he had told you on the previous Tuesday morning in San Francisco that he had put some ice into Miss Rappe?

A. No, sir, I had forgotten all about the incident.

Q. It was such a trivial circumstance it was erased from your

mind?

A. I had forgotten all about the party --

Q. Is that correct? A. Correct.

Q. At the breakfast table, in the presence of Mr. Arbuckle in Bakersfield, did you mention the fact that Mr. Arbuckle had said to you that he had put this piece of ice into Miss Rappe?

A. No, sir.

Q. You still had forgotten it? A. I believe so.

Q. Well did you? A. I believe I did.

Q. Well did you, or did you not?

A. I didn't mention the subject -- naturally I must have forgotten it.

Q. Did you remember it at the breakfast table?

A. No, I did not.

Q. Then you had forgotten it? A. Yes, sir.

Q. When you were questioned by Mr. O'Ron and Captain Matheson when you came to San Francisco Saturday night, or any time thereafter, you were questioned relative to your knowledge of this case -- did you ever tell that circumstance relative to the ice?

A. No, sir. I answered all of the questions put to me.

Q. Never told him anything about that?

A. No, sir.

Q. Did you remember it when they were asking you questions as to your knowledge of the facts of this case?

A. I don't think I did, because I answered their questions.

Q. Do you know whether you did or not?

A. I don't know whether I did or not.

Q. Did you remember it at the time they were talking to you and asking you about your knowledge of the case?

A. I don't think so.

Q. You remember, don't you, Mr. Bennacher, that both Captain Matheson and Mr. O'Ren requested of you all information that you had about the case?

A. Yes, sir, they asked me questions.

Q. Wanted you to tell everything you knew?

A. Yes, sir.

Q. And you didn't tell them, however, about that incident?

A. I answered all their questions.

Q. Well, did you tell them everything that you knew about the case?

A. Not this.

Q. Not that -- all right -- and the reason is that you hadforgotten it? A. Yes, sir.

Q. You were questioned before the Grand Jury weren't you?

A. Yes, sir.

Q. Did you testify to anything relative to the subject of ice before the Grand Jury?

MR BRENNAN: I think he ought to be given the record.

MR GOLDEN: I am asking him if he remembered.

A. I don't know whether I did or not.

Q. Did you remember it when you testified before the Grand Jury?

A. No, sir, I could not tellyou what I stated there.

Q. Did you remember the incident about the ice when you testified xbefore the Grand Jury? A. No, sir.

Q. You hadforgotten it? A. Yes, sir.

Q. Did you remember it at the time they were talking to you and asking you about your knowledge of the case?

A. I don't think so.

Q. You remember, don't you, Mr. Semmacher, that both Captain Matheson and Mr. U'Ren requested of you all information that you had about the case?

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Q. Did you remember it when you testified before the Grand Jury?

A. No, sir, I could not tellyou what I stated there.

Q. Did you remember the incident about the ice when you testified before the Grand Jury? A. No, sir.

Q. You hadforgotten it? A. Yes, sir.

Q. You testified also before the coroner of San Francisco the day after you testified before the Grand Jury?

A. Yes, sir.

Q. Did you, during the course of your examination and testimony before the coroner, mention this incident or say anything relative to the subject of ice?

A. I don't think so.

Q. Did you remember it at the time you testified before the coroner?

A. Did I what?

Q. Did you remember the circumstance?

A. No I don't think I did.

Q. Then you had forgotten it at the time you testified before the coroner?

A. Yes, unless it is in the transcript.

Q. When did you first recollect what Mr. Arbuckle had told you on that subject -- on the subject of ice?

A. I don't remember.

Q. Was it before or after you were sent for by the District Attorney's office at Los Angeles?

A. I don't know.

Q. Don't you know? A. No.

Q. What is it? A. It could have been before or after. I wasn't sent for by the District Attorney's office.

Q. The District Attorney at Los Angeles procured a statement from you didn't he?

A. Yes, but he didn't send for me.

Q. In which you told him this incident? A. Yes, sir.

Q. Did you testified also before the coroner of San Francisco the day after you testified before the Grand Jury?

A. Yes, sir.

Q. Did you, during the course of your examination and testimony before the coroner, mention this incident or any anything relative to the subject of loot?

A. I don't think so.

Q. Did you remember it at the time you testified before the coroner?

A. Did I what?

Q. Did you remember the circumstance?

A. No I don't think I did.

Q. Then you had forgotten it at the time you testified before the coroner?

A. Yes, unless it is in the transcript.

Q. When did you first recollect when Mr. Arbuckle had told you that subject -- on the subject of loot

A. I don't remember.

Q. Was it before or after you were sent for by the District Attorney's office at Los Angeles?

A. I don't know.

Q. Don't you know? A. No.

Q. What is it? A. It could have been before or after. I wasn't sent for by the District Attorney's office. Q. The District Attorney at Los Angeles procured a statement from you didn't he?

A. Yes, but he didn't send for me.

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